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AUTHOR Hunterton, C. Stanley; And Others
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ABSTRACT

The contents of this document are organized in six sections. Section one, "Overview," discusses the parameters of the busing controversy. It indicates that the basic issue in the busing debate is racial desegregation in our nation's schools. Section two, "Busing in Perspective," examines the history, scope, and cost of busing; the law and busing; and, the attacks on busing as a symbol for racial desegregation. Section three, "Busing: What are the Objections," discusses six assumptions of busing against the background of four axioms of social change. Section four, "The Impact of Busing: The Child," discusses the question, "What does racial balance have to do with education?" It presents a discussion of the range of opinions on that question including an overview of the arguments of Jensen, Jencks, The Rand Report, the Fleischmann Report, the Weinburg Analysis, and the work of Kleindorfer, Levin, and Stout. Section five examines several "Alternatives to Busing." The discussion proceeds from the premise that the availability and suitability of alternatives depend on the importance assigned by the community to the objective of racial integration. Section six, an "Appendix," includes the memorandum from the Commission on Civil Rights to Congress relative to the anti-busing amendment, and the bibliography used by the staff in researching the topic.
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BUSING: -- Ground Zero in School Desegregation:

A Literature Review with Policy Recommendations

Prepared by the

Policy Institute

Syracuse University Research Corporation

723 University Avenue

Syracuse, New York 13210

Michael V. Reagen, Ph.D., Project Director
Stanley Hunterton, Research Associate and Co-Director
Tom Smith, Research Assistant
LeeAnn Sumnicht, Research Assistant

Under a Grant-in-Aid From:
Institute for Development of Educational Activities, Inc.
An Affiliate of The Charles F. Kettering Foundation
5335 Far Hills Avenue
Dayton, Ohio 45429

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CONTENTS

Acknowledgments

Abstract 5

Section I: Overview 8

A. Background 8

B. The Problem 11

C. The Research Method 13

D. Conclusions 23

A. Policy considerations 23

B. Recommendations 23

Section II: Busing in Perspective 24

A. A Look at the History 24

B. The Scope and Cost of Busing 28

C. The Law and Busing 30

D. Busing as a euphemism 35

Section III: Busing: What are the Objections 37

A. Four Axioms 37

B. Six Assumptions 37

Section IV: The Impact of Busing: The Child 51

A. The Basic Question 51

B. The Range of Opinion 52

1. Jensen's Argument 52

2. Jenck's Position 53

3. The Rand Report 55

4. The Fleischmann Report 56

5. Weinburg's Analysis 58

C. Efficacy of Busing 61

D. Conclusions 62

E. Racial Attitudes 64

Section V: Alternatives to Busing 73

Section VI: The Appendix 90

A. U. S. Commission on Civil Rights Memorandum 90

B. Bibliography 106

TABLES

1. Growth of School Transportation in America 27

2. Current Data on Busing 28

3. Estimated Mean Number of Miles Due to Desegregation Nine Florida Counties, 1970-71 41

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Center on the Disadvantaged, Columbia Teachers College; Dr. Thomas F. Pettigrew, Professor of Social Psychology, Harvard University; and Preston Wilcox, Chairman, National Association of Afro-American Educators.

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Special mention must be made of C. Stanley Hunterton, Research Associate at the Policy Institute and a law student at Syracuse University's College of Law. He was the principal reviewer of the literature and wrote the majority of this report. He should be considered the true shepherd of the project.

Finally, the contributions of five of the Institute's Research Assistants and three other staff members must be noted. LeeAnn Sumnicht helped convene the panel and wrote part of this report. Thomas Smith arranged the bibliography. Charles Jones and Ron White were particularly helpful at critical junctures. Joyce Ross made substantive and editorial contributions which added appreciably to our efforts. Laurie Davis and Kathy Wood provided expert clerical assistance throughout the project.

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Michael V. Reagen, Ph.D.

Abstract

The discussion draft is divided into six sections.

Section One, "Overview" discusses the parameters of the busing controversy. It indicates that the basic issue in the busing debate is racial desegregation in our nation's schools; busing is merely the target of current arguments. The section includes an explanation of the origin of the report, the methods used in the research effort, some policy-related conclusions, and a set of recommendations for further inquiry by the Foundation.

Section Two, "Busing in Perspective", examines the history, scope, and cost of busing; the law and busing; and the attacks on busing as a symbol for racial desegregation.

Section Three, "Busing: What are the Objections", discusses six assumptions of busing against the background of four axioms of social change. The axioms are: 1) No program of social change is free of social pain. 2) The price of social change is high. 3) Social and political problems are never permanently solved. 4) The ultimate usefulness of any public policy is the result of the quality of leadership.

The assumptions examined in this section are: 1) Busing for desegregation is different from other busing because schools and children are forced to bear the weight of a problem general to our society. 2) The neighborhood school is both natural and preferable. 3) Busing for desegregation will result in pupils being transported excessive distances with consequent waste of time and hazard to safety.

4) The minority, ethnic communities are as opposed to busing as are the white majority. 5) Busing discourages participation in the extra-curricular activities of the school. 6) Busing for desegregation drives whites to the suburbs.

Section Four, "The Impact of Busing: The Child," discusses the question, "What does racial balance have to do with education?" It presents a discussion of the range of opinions on that question including an overview of the arguments of Jensen, Jencks, The Rand Report, The Fleischmann Report, the Weinburg Analysis, and the work of Kleindorfer, Levin and Stout. It presents five conclusions drawn from a review of the literature. They are: 1) the presence or absence of high quality school services at the end of the bus ride far outweighs the question of "who goes where" in determining the educational impact of a busing program; 2) the effects of busing on student performance are cumulative; 3) busing will yield more positive effects when it begins with younger pupils rather than older ones; 4) there is no reason to believe that either the academic performance or the aspirations of white students will suffer from busing; 5) what little research was found relating the effect of busing to college aspirations and performance indicates that an integrated educational experience is better preparation than a segregated one. The section ends with a discussion of the relevant contributions of David Armour and Gordon Allport to an understanding of the effect of busing on social attitudes.

Section Five examines several "Alternatives to Busing". The discussion proceeds from the premise that the availability and suitability of alternatives depend [illegible] importance assigned by the community to the objective of racial integration. Alternatives to the simple manipulation of the racial mix of pupil enrollments require the same degree of groundwork fundamental to any responsible educational change. The organizing principles around which such groundwork can be laid include: (1) involving affected and interested community elements in planning and implementation; (2) giving constructive attention to the individual differences among pupils and teachers; and (3) recognizing the centrality of teacher involvement in working any significant change. Finally, several alternatives to busing are discussed in terms of the policy objectives they would serve. The alternatives considered are educational parks, tuition vouchers, open enrollment compensatory education and community control.

Section Six, The Appendix contains two supporting documents. They are a copy of the memorandum from the U.S. Commission on Civil Rights to Congress relative to the anti-busing amendment, and the bibliography used by the staff in researching the topic.

SECTION I

Overview

The Background

Each school day, eighteen million young Americans in most of the nation's seventeen thousand school districts use over a quarter of a million buses to go to and from the nation's elementary and secondary schools. These youngsters, forty three percent of all children in our schools, travel over two billion miles each year at an annual cost to taxpayers of almost two billion dollars.

Forty percent of the children, many of whom reside in rural and suburban areas, use school buses exclusively to improve the quality of their education and for convenience and safety. The other three percent are bused to achieve desegregation.

According to the National Safety Council, the school bus is the safest mode of transporting school children,especially those in lower grades. It has proved to be over four times safer than the commercial bus and forty times safer than the private automobile. Authorities in Pennsylvania in fact, after five years of study, argue that busing children to school is, per child, per mile, three times safer than walking.

Clearly, the school bus is an accepted facet of American culture. Yet, at this writing,it is the target of one of the most bitter political controversies in our nation and promises to become a major battleground of American race relations in the 1970's. Dollar for

dollar, busing for desegregation has caused more debate in this country than any other current, domestic policy decision under discussion.

Why? Because placing one's child on a bus to go to a strange neighborhood and mix with children of different races puts two strong issues into sharp relief. "Quality education" for all children is an articulated national goal. For many Americans, the means to this national goal is integration of the schools. Busing's advocates believe the two efforts are inextricably meshed. Busing's opponents believe one can be accomplished without the other.

The basic issue, then, is not busing but racial desegregation of the nation's schools. A malaise of consternation appears to be sweeping the country over the advances toward racial desegregation made during the 1960's. Some observers of the current American social scene perceive a growing national mood which threatens to turn back the clock on race relations in the decade of the '70's.

Considerable data exist to suggest that many obstacles must be overcome if relations between black and white Americans are to significantly improve in the next ten years. Cursory perusal of the Kerner Commission Report, the Fleischmann Commission Report and the numerous studies on the plight of the cities and the criminal justice system raise important questions about the existence of equality in our society.

The questions raised by these studies, and the host of others which have sprung from them, are not the focus of this report. But

they are involved because "the busing issue" really resides within the broader question of racial assimilation and harmony.

The large numbers of decent American parents -- both black and white -- who are upset about busing can be divided into two groups. One group is genuinely concerned about separating children from familiar surroundings, parental protection and clear racial identity. The other group is genuinely concerned about potential dangers to children when mixed scholastically with youngsters of another race. Both groups distrust busing because they perceive it as a vehicle for social transition rather than a vehicle of transportation. Both groups are justifiably concerned because they are uncertain of the total impact of busing upon their children.

The Problems

In early July 1972, the Charles F. Kettering Foundation requested the Policy Institute of the Syracuse University Research Corporation to undertake a short-term research effort aimed at clarifying the issues surrounding the technique of busing school children to achieve racial desegregation. The Foundation articulated the need for a careful analysis of busing for desegregation, as it has been variously recorded, reported and discussed among the education and social science research communities over a number of years, (1) to discover how the nation views such busing in respect to achieving its intended educational and/or social goals and (2) to provide information on potential alternatives for achieving the intended educational and social aims of busing. To these ends the Foundation requested a review of the research literature to determine from available evidence and research underway the impact of busing on the educational achievement of school children, and the social and attitudinal effect on inter-class, inter-racial relationships and other variables of the complex issue.

Specifically, the Foundation asked the Policy Institute to consider eight questions:

1. What are the problems and/or issues in this area?
2. What are the root causes of these issues and problems?
3. What is being attempted in attacking these problems now if anything?

4. Why are present methods inadequate for the problem?

5. What are promising new directions for dealing with the busing problem?

6. What individuals and/or institutions are most likely candidates to carry out new approaches to help solve the problem?

7. What would be probable timetables for designing pilot efforts and achieving initial impact?

8. What are the likely costs of pilot efforts?

Additional questions implicit in the inquiry are: what is the impact of the study for national policy and what can the Kettering Foundation do? It is hoped that results of this study may assist the Foundation to design program efforts which will aid decision-makers at various governmental levels and in the field of education on the major policy issues related to busing specifically and integration generally.

The Research Method

After dialogue with the Foundation, the Institute elected to use the eight questions as reference points and to integrate them into the report with the qualification that, without substantial field research beyond the limitations of the project, answers to the questions -- particularly questions 7 and 8 -- could not be definitive.

The Policy Institute focused its efforts on (1) a thorough search of both the academic and popular literature dealing with "the busing issue" and (2) the convocation of a two-day panel of discussions to analyze the history of busing and to project possible future issues, programs and alternatives.

The research effort was directed toward detecting indications of the progress (or lack thereof) that busing for desegregation has made toward improving the quality of education and identifying components of racial tension involved, as evidenced in a thorough search of the literature in the field. An additional goal of the literature search was to establish a bibliography on the range of issues tangential to the busing question, as well as to identify with some precision several knowledgeable and sensitive people conversant with most of the busing arguments. Once identified, these individuals would be invited to participate in the two-day panel discussion, the proceedings of which would be transcribed and incorporated into the final report. Also included in the report is a bibliographic section resulting from the survey of over 4,000 articles, books and papers written on the subjects of busing, desegregaton, and integration (each one having in the minds

of researchers, specific non-synonymous characteristics which form its particular parameters, but all of which are part of the same general policy problem). The major resources utilized for the survey were the E.R.I.C. library (over 3000 studies); Desegregation Research: An Appraisal by Meyer Weinburg (over 700 studies); and a 1967 publication edited by Weinburg entitled School Integration (over 3000 studies). Also reviewed in the survey were a number of magazines (weekly, monthly and quarterly) newspapers, and education journals as well as testimony and speeches from hearings before committees of the United States Senate and House of Representatives.

The literature search was conducted during August and September and completed in October, 1972. The panel was convened on October 23 and 24, 1972 in Syracuse. This report is the result of those efforts.

A word of caution is appropriate before reading further. While this report does suggest several specific recommendations for the Foundation's attention, it is not intended to be viewed as a dogmatic document. Rather, it should be considered an attempt to provide the Foundation with a descriptive overview of the complexities of busing, one which raises more questions than it answers. American history is rich with examples of the development of solutions to societal problems before the problems themselves were clearly defined. We are an impulsive people who often act more swiftly than wisely. Unless policy makers thoughtfully scrutinize the implications of the busing controversey before they formulate planning to resolve it, there is little hope that in the next decade America will cope in humane and practical fashion with the dynamic relations between its races.

Based on SURC's investigation and the panel's deliberations, twelve suggestions for further inquiry are made to the Foundation and eight policy considerations noted.

A. Policy Considerations

1. Equal opportunity through equal access to education has been identified as a national goal. Integrated schools can, with proper support, provide such opportunity. As with any other national effort, the Federal government should provide a significant and firm level of financial assistance. Specifically, the Federal government could provide a set of tax incentives and rebates for school systems which successfully integrate. This is a common method of spurring growth in preferred areas of our economy, and an investment in integrated education ought to receive equally serious treatment.

2. Boards of Education, Superintendents and the judicial system ought to consider and make every effort to implement the following considerations in conjunction with any busing program:

-- that genuine racial integration be considered a goal of our schools wherever feasible because it promises to yield positive benefits for our children, and ultimately, our nation.

-- that desegregation/ integration not be done on a token basis, keeping in mind the importance to incoming students of the psychological support that comes from being with a substantial number of one's friends and neighbors.

-- that the initiation of desegregation occur in the early grades, preferably in kindergartens, first, and second grades,

rather than beginning at the secondary level.

-- that efforts be made to provide sufficient remedial counseling and other school services to facilitate the learning process of all children in integrated schools. This may involve an increase in the level of services provided to a school concurrent with its level of integration.

-- that every effort be made to provide each school with an inter-racial staff in its teaching, administrative, secretarial, custodial, counseling and supportive ranks.

-- that racial desegregation occur not just in every school but also in every classroom. This may mean elimination or modification of "teaching" by ability groups.

-- that all children be treated equitably, i.e., equal access for all races to total school materials, facilities and resources including varieties of social-status activities provided through extracurricular activities.

We strongly emphasize the importance of instituting programs which implement these seven suggestions. Desegregation, whether by busing or any other means, is not enough. Unless genuine integration is actively practiced, both school and community will suffer through the hardships of busing without reaping any of the benefits.

3) It is naive to assume that any overt methods of integrating schools other than busing will meet with immediate success or widespread approval from the general community. The history of American attempts at integration indicates strong and determined

opposition. There is evidence that alternative and less direct approaches to integration may be more acceptable to the majority of our population, although it is reasonable to assume that opposition to such other methods may come from different segments of the community.

4) Even though available research on the educational and social impact of busing is imperfect and incomplete and additional, carefully structured studies are needed, it is doubtful they will have a significant impact on the public. The community-at-large is not reached by studies. Policy makers, however, are entitled to clearer statistics, more accurate achievement measurements, and better evaluative means.

5) Where integration is a community goal Boards of Education, school administrators,teachers, parents and students should make visible efforts to promote community support for busing. In this effort they should enlist professional assistance to prepare segments of the community to accept racial desegregation as a necessary step toward achieving the beneficial goal of racial integration, and to reinforce positive attitudes as they develop. The strategy of introducing and positively reinforcing the goals of integration while minimizing anxieties about desegregation can be best accomplished by local citizens using professionals or resource personnel. The emerging disciplines of organizational develcpment and community psychology promise to provide policy makers with strategies for implementing desirable and necessary social change. Our examination of the research literature

on new approaches to community organization indicates that the techniques and skills of "change agentry" merit developmental support from foundations. Studies on the diffusion of innovations have focused on aggregate units until recently. Within the last ten years, Rokeach* and others have demonstrated on a small scale that relational analysis can be effective in bringing about changes in belief structures and corresponding behavior.

6) Many people in the anti-busing movement have voiced the concern that they do not want their children bused into unsafe schools in high-crime-rate areas. It seems reasonable to go one step further. If such concern is substantiated, the school ought to be closed or appropriate corrective measures taken. No child, black or white, bused in or native to the neighborhood, should go to school under conditions which seriously threaten physical safety.

7) There are opponents to busing whose opposition is based solely upon the fact that it brings about a mixing of the races. There is also a substantial group who are not racists, but who hold legitimate fears

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*Milton Rokeach, The Open and Closed Mind. (New York: Basic Books, 1960).

*Milton Rokeach, Beliefs, Attitude and Values. (San Francisco: Jossey-Bass, 1968).

*Milton Rokeach, "Attitude Change and Behavior Change," Public Opinion Quarterly, 1966-67.

*Milton Rokeach "The Organization and Modification of Beliefs", Centennial Review, 1963.

concerning their child's safety and rate of educational progress. This latter group should not be labeled "racist".

8) In the course of responding to the questions and fears of white parents, community leadership should be mindful of the need to address the fears of black or minority parents. They too worry about the safety and well-being of their children in an integrated school. Their fears are compounded by our historical failure as a nation to redress minority grievances as quickly and effectively as those registered by whites.

B. Research Recommendations

1. Investigation of studies revolving around the integration-desegregation-busing issue has demonstrated that the situation-dependent, fragmentized approach of the past has given policy makers insufficient evidence for truly rational decisions on this national issue. Much would be gained if the problem were studied with methodologies which are useful to the individual situation, but suitable for uncovering patterns which are occurring on a national scale. Results must be generalizable to the greatest extent possible. We cannot expect to make national policy for a national problem with a hodge-podge of studies, constructed around differing propositions for testing and using different techniques, models or approaches. Some national applicability factors should be constructed and by whatever means deemed feasible (i.e. State Education Department statistical studies, foundation grants, etc.) made a component of investigations in

individual situations. Evaluation methods should also be a part of the national applicability component. Americans cannot afford to let comparisons of apples and raisins influence national policies. Scientific evidence on both sides of the "busing question" is so scanty that the technique has been reduced to a gamble. Attitudinal and achievement gains or losses may prove to be slim, but they must be based on comparable, reliable measures. Thus, design of such instruments is a recommendation.

2. The relationship between parent and student involvement and parent and student intervention in successful and unsuccessful busing programs should merit special consideration.

3. The relationship between parent and advisory councils for Title I programs and the data supporting the success of these programs should be studied. An analysis of what they do and how they do it would be helpful.

4. Descriptive analyses ought to be initiated which focus on the characteristics and decision-making styles of those policy makers directly involved in formulating and implementing busing programs. For instance, are the styles motivational, custodial or regressive in terms of desegregation efforts? What characteristics of leadership permeate those school systems where significant desegregation/integration efforts are being made? Can these characteristics be identified and replicated in other, similar school situations to enhance desegregation/integration programs? If so, how? If not, why not?

5. Similar studies ought to be made on the role of service clubs and other unofficial power brokers in the community who influence

receptiveness toward school busing and other desegration programs.

6. An examination of how schools -- especially those in urban areas -- use the educative resources of the communities they serve should also be undertaken. Are sufficient efforts being made, for example, to involve relevant individuals and institutions in the community in the learning process? Are the cultural, artistic, religious, commerical, legal, industrial, etc. individuals and organizations in the community, especially in the city, contributing to what takes place in the classroom? If not, why not? If so, how can these contributions be maximized?

7. Research ought to be conducted to investigate the extent of the impact of the mass media on busing and other school programs. Comparative studies of radio, television and press involvement in several communities which have substantial school busing programs would be especially helpful.

8. Efforts should be applied to discovering if busing children to induce desegregation brings about gains in those concommitants of learning which elude measurement by standardized tests, i.e., the "humanizing" of the education process.

Attention should be paid to assisting schools in setting priorities and goals for themselves and to learn how to evaluate themselves to gauge their progress towards these criteria.

Demonstration projects ought to be established to test the strategies suggested by organizational development and community psychology on how to use teams of change agents to psychologically

prepare and sustain a community engaged in serious desegregation/ integration efforts.

11. Serious efforts ought to be made to investigate the apparent lack of conviction on the part of the white majority that it has any stake in poverty and integration programs.

Conclusions: Policy Considerations and Recommendations

SURC's analysis of the literature indicates that the research on busing is imperfect and inadequate. It must therefore be considered incomplete. The data which is available is decidedly ambiguous. The studies and their results do not conclusively confirm or deny either positive or negative effects of busing children to effect racial desegregation in schools. Based on the data, it cannot be generally demonstrated with certitude that busing achieves positive educative, social, cognitive and affective gains. Nor can it be said with certitude that busing results in a decline in the educational or social achievement of either those children who are bused or those in the schools to which they travel.

Where level of educational gains and declines has been studied for direct relationship to busing, the gains or declines are insufficient to support either opponents or proponents of the busing technique. Flaws in methodologies, controls, populations, time constraints and other countervailing influences limit the ability to generalize from the data yielded by the research works on busing. There are, however, important reasons for continuing efforts toward school integration, among them: (1) our judicial system has established integration as a worthy national goal, (2) integration holds the potential to bring so rich a variety of social advances to all Americans that it is in the national interest to continue to work to bring it about, and (3) the alternative -- a segregated society -- is unacceptable under the Constitution.

SECTION II

BUSING IN PERSPECTIVE

Until recently the yellow school bus held a place of high esteem perhaps equivalent to the little red school house in the history of American public education. As with other institutions the fact doesn't measure up to the myth. Nevertheless, the transportation of elementary and secondary school students has at several junctures played an integral role in the improvement of educational opportunities for millions of youngsters.

This same bus has also been the tool of vicious, discriminatory practices in the South and in the North. If Americans did not have the ability to transport students great distances it would have been more difficult to maintain segregated school systems.

This chapter is a synopsis of the history of school busing. It includes a look at the data, past and present, valid and invalid, on the uses, purposes, costs, law and politics of busing.

A. A Look at the History

The first "busing" law was enacted in 1869 by the state of Massachusetts. It provided authorization to expend public funds to carry children to and from their schools. The buses employed were horse-drawn wagons owned by local farmers who were paid on the basis of the number of students they transported. By 1919 all of the then 48 states had followed suit in authorizing the use of tax money to transport children to and from school.

Essentially there were two forces which generated this rapid proliferation of state supported busing. First, the compulsory attendance laws, which were conceptually grounded in the notion that the state had a vested interest in all children receiving at least a modicum of education, made it logical and necessary that states provide the means for all children to travel between school and home. Second, the consolidation of school districts and centralization of school facilities especially in rural areas often put the school out of reasonable walking distance.

Since the great influx of Americans to our metropolitan areas in the early 1940's, the pressure from these and other forces has accelerated. In fact, between 1945 and 1968 the percentage of students transported nearly doubled and their number more than tripled. The most important reason for this seems to be consolidation. Today there are only a little over 17,000 school districts in the United States; at the end of World War II, there were more than 100,000 districts. In addition, the search for a more responsive, flexible curriculum and a healthy concern for the safety of the children in their charge has stimulated virutally every school district to expand its transportation services.

Table One presents the numerical history of busing. These data suggest that the school bus had facilitated many constructive changes in public education. It does not indicate that the school bus has, as Theodore M. Hesburgh, Chairman U.S. Commission on Civil Rights, stated in his testimony before Congress on July 1, 1972, been used to perpetuate a system of educational apartheid.

> It is sometimes forgotten that for years black and white pupils were bused, often past each other, many miles each day to maintain school segregation. Throughout the South before desegregation, some school districts bused all their pupils to uniracial schools. Then there was no outcry. Black and brown children would sometimes trek long distances to their school, unable to ride the white school bus which passed by them. There were no protests.

We would only add that busing for segregation has not been confined to the South. Indeed, busing for segregation has often been the policy in the North as has been revealed in desegregation suits. Such an action was brought in Detroit last year and the court found:

> The Board, in the operation of its transportation to relieve overcrowding policy, has admittedly bused black pupils past or away from closer white schools with available space to black schools. This practice has continued in several instances in recent years despite the Board's avowed policy adopted in 1967, to utilize transportation to increase integration. (Bradley v Milliken, 1971).

TABLE ONE*

Growth of School Transportation in America

Year	Number of Pupils Transported	Percent of Total Pupils in U.S. Transported
1919-1920	356,000	1.7
1921-1922	594,000	2.6
1923-1924	837,000	3.4
1925-1926	1,112,000	4.5
1927-1928	1,251,000	5.0
1929-1930	1,903,000	7.4
1931-1932	2,419,000	9.2
1933-1934	2,795,000	10.6
1935-1936	3,251,000	12.3
1937-1938	3,769,000	14.5
1939-1940	4,144,000	16.3
1941-1942	4,503,000	18.3
1943-1944	4,410,000	19.0
1945-1946	5,057,000	21.7
1947-1948	5,854,000	24.4
1949-1950	6,947,000	27.7
1951-1952	7,697,000	29.0
1953-1954	8,411,000	32.8
1955-1956	9,969,000	35.0
1957-1958	10,862,000	36.5
1959-1960	12,225,000	37.6
1961-1962	13,223,000	38.1
1963-1964	14,476,000	38.7
1965-1966	15,537,000	39.7
1967-1968	17,131,000	42.0

N.B.: Number of Pupils transported rounded to nearest thousand. Percentages from unrounded figures.

*Stephen J. Knezevich and John Guy Fowlkes, Business Management of Local School Systems (Harper and Row: New York, 1960), p. 293. National Commission on Safety Education, National Education Association. U. S. Department of Health, Education and Welfare. As cited in Nicolaus Mills, Busing: Who's Being Taken for a Ride (ERIC-IRCD Urban Disadvantaged Series: New York, 1972), p. 9.

B. The Scope and Cost of Busing

It is clear from a brief study of the history of busing that it is far from exceptional for children to be bused to school. If students who used public transportation to get to school were included in the category of those bused, the percentage of students covered would probably range over sixty percent. In fact, the public school busing program is the largest, single transportation system in the United States according to U. S. Department of Transportation data. Table Two presents current data on this system.

TABLE TWO*

Current Data on Busing

Number of children bused to school.	19.6 million
Cost of busing (including replacement).	$1.5 billion
Busing costs in states as percentages of total education outlays.	0.7% to 6.9%
Number of buses	256,000
Number of drivers	275,000
Miles traveled per year	2.2 billion

Nearly forty-three percent of all the school children in this country are bused. According to Elliot Richardson, the Secretary of Health, Education and Welfare, only about three percent of the twenty million students who are transported at public expense are bused for the purpose of

*Gene I. Meroff, The New York Times, January 10, 1972 .

achieving desegration. Put another way, since the decision in Brown v. Board of Education (1954) more than ten million pupils have been added to the busing roles. Of these children about 300,000 have been bused to further the cause of desegregation. To be sure, the health, safety, and educational opportunity of 300,000 pupils is no small matter. But that figure would seem to belie the notion sometimes generated by the mass media and several politicians, that the school bus was invented expressly to carry out court-ordered busing.

National figures are at once illuminating and deceptive: while they help place the busing issue in a proper perspective, they also tend to hide the large impact expanded busing programs have had on districts where it has taken place. For example, in Jacksonville, Florida, over twenty-five percent of the students were affected by court-ordered busing while in Oklahoma City nearly half of those who use the bus ride it to further desegregation.

Nationally, the cost of busing is just under four percent of total expenditures for education, but a significant increase in the size of a given school district's bus fleet can stretch the usually strained local budget beyond what the taxpayers are willing to pay. In districts where there is no direct veto power of citizens, school administrators may still be forced to cut valuable programs and staff to accommodate the increased cost of busing.

Why are children bused? Throughout the history of American public education students have been bused as a convenience or a privilege in the suburbs. In rural areas, busing has changed the nature of the school system. As many observers have pointed out, the "neighborhood school" and the "little red school house" have always been a myth for a substantial

minority of American children. Busing has often been used specifically to get these students to the consolidated or "better" schools and away from what their parents and teachers deemed to be inferior education.

The phenomenon of busing for desegregation is recent. White schools have always been instruments of social policy. Only within the past decade have they become embroiled in the current struggle to create mirrors to reflect the general racial balance of the area.

C. The Law and Busing

Generically, busing is a creation of the state legislature, local policy makers, and educators. Busing for desegregation, however, is a court-made doctrine. The recent history of litigation involving busing to achieve desegregation shows concretely what is required of our school districts and the rationale for those requirements.

For practical purposes, the center of the busing storm is the Fourteenth Amendment to the U. S. Constitution:

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law nor deny to any person within its jurisdiction the equal protection of the laws.

It is the "equal protection" clause which frames the twin issues of integration and busing. The famous decision in Brown v. Board of Education established racial integration of public facilities as constitutionally mandated. The issue presently is whether that mandate extends to the use of busing as a tool to achieve the policy of integration.

In brief, does "equal protection" require busing? This simple phrase opens a Pandora's box of questions and implications:

- Is the protection extended to situations where the state has done no affirmative act toward fostering or maintaining segregation?
- To what extent are racial quotas permissible or necessary to comply with the law?
- Is remedial action required by the state where violations occur, for whatever reason -- to what extent?

These three questions are merely illustrative, not exhaustive. But they suggest the crux of the problem facing many communities, namely, "How do we translate constitutional theory into a workable program for increased educational opportunity?" "How do we achieve integration?"

The U. S. Supreme Court has preferred to leave loose (or "vague" according to the critics of the Court) parameters within which local policy makers and Federal District courts may formulate constitutionally acceptable plans. The hard questions have been left to Boards of Education and District courts situated in the state where the controversy is taking place.

The memorandum prepared by the U.S. Commission on Civil Rights for Congressional consideration during the House Judiciary's Committee's deliberations on House Joint Resolution 620 (the anti-busing amendment) is important. It is included in Appendix I because it is a concise statement of the issues and the law. Reading it helps clarify the often arcane worlds of constitutional law.

Four brief observations about the current state of busing and the law are in order.

1. Swann v. Charlotte-Mecklenburg is the case people usually have in mind when they talk about "massive, forced busing". It is important to emphasize that the Supreme Court did not mandate fixed racial quotas for schools as it has been accused of doing. The Court designated the use of the community racial composition as a starting point in the planning process. The Court also specifically took notice of the argument concerning the health and the quality of education of the bused students, and they found the possibility for valid objection to a busing program on these grounds.

> An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly infringe the education process.

This decision is important in another vein. Swann was decided unanimously. Therefore, it may be considered a reasonable indication of the posture which the Burger court will assume in this area of the Law. Busing seems firmly ensconced as one means of desegregating our schools.

2. The "Commission" referred only briefly above to Bradley v. The School Board of the City of Richmond. A comment about this much publicized case is necessary. The court in effect invaded the suburbs surrounding Richmond. In what may yet prove to be the single most significant desegregation case since Brown, Judge Merhige said:

> Attendance zone lines formulated by adhering to the most natural bounds of neighborhoods or according to strict proximity of pupils to facilities will not pass muster if the effect is to prolong the existence of a dual system of racially identifiable schools. This is so even though the application of such attendance plans might be more economical in time and transportation cost, might facilitate the operation of more extracurricular school activities, and might make possible the rather uncertain benefits which some

> educators attach to the walk-in school. It is not that these may not be valid and rational educational goals; the point is that the end of desegregation may not be subordinated to them.
>
> Davis v. Board of School Commissioners of Mobile County establishes definitively that existing physical features - there an interstate highway - should not impede efforts "to achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation." If physical demarcations do not limit the duty of the court to use "all available techniques," so much the less should political boundaries, when they coincide with no tangible obstacles and are unrelated to any administrative or educational needs. (Emphasis added)

Less than one month after Judge Merhige's decision a higher court stayed the order pending appeal of the decision. It is significant, however, because this second court specifically directed school authorities to continue planning for a school system that would cross city lines. At this writing the outcome of the School District's appeal has not been reported.

3. Keyes v. Board of Education I, dealing with de facto v. de jure segregation, bears careful watching. The District Court found no deliberate (de jure) segregation, but did order desegregation based on the denial of "an equal educational opportunity". The Circuit Court reversed on this latter theory. A decision this October by the Supreme Court reinstating the finding of the District Court might well cause a quantum expansion in the number of cities faced with the necessity of developing an integration and possibly a busing program.

4. The Congress is no longer silent in the great debate over busing. Several attempts have recently been made to retreat from the position taken by the judiciary.

U. S. Representative Norman F. Kent, Republican of Nassau County,

New York, introduced House Joint Resolution 620 -- the antibusing amendment -- on May 6, 1971. He offered the following amendment to the Constitution of the United States:

> Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.
>
> Section 2. Congress shall have the power to enforce this article by appropriate legislation.

This Bill has been essentially "sandbagged" by mutual consent from both sides of the aisle. We are not likely to witness any debate on it until after the Presidential elections.

- President Nixon has signed into law a "weak" anti-busing bill which provides in essence that school districts need not desegregate until they have exhausted all appeals.

- In August, the House of Representatives passed a much stronger measure which called for:

a. a prohibition against any court or Federal agency from assigning any student to school other than the one closest or next closest to his home; and

b. the reopening of settled court orders to determine if they require more than the new Law.

The Senate has killed this Bill. In an odd twist of circumstances, northern liberals filibustered and were able to keep a Republican/Southern Conservative coalition from bringing the Bill to a vote.

These efforts as well as other bills which have been introduced are of primarily symbolic value. The Constitutional Amendment is not likely to become law given the rigorous tests such movements are put to, and the various bills are likely to be either circumvented or declared

unconstitutional by the courts should they get past the Senate.

D. Busing as a euphemism

The fact that over 40 percent of our public school students are bused, often long distances, each day for reasons far removed from desegregation indicates that busing *per se* is not considered either harmful to the physical and emotional well-being of these youngsters or detrimental to their education.

Unfortunately, too much of the discourse on busing has followed the well-worn recipe of so many other areas of socio-political and economic concern such as housing, employment, consumer protection, etc. -- "add race and let boil." Busing, while raising many legitimate, and important issues, is also a code word. It provides a screen of respectability behind which blacks and whites carry on a duel which is based on suspicion, prejudice, and a long history of hatred.

This partially hidden agenda bears directly on the educational and social impact of busing for desegregation. Like other issues before it, "law and order" for example, busing carries a lot of extra baggage. The result is obfuscation and acrimonious debate which invariably misses the real question: "What can we do about the problem?"

In an address before the Florida Parent Teacher Association Congress in late 1971, Governor Reuben Askew put the "side show" that often accompanies desegregation into focus-

> We must decide whether we really think it is right and good to have all-white schools and all-black schools, for this, obviously, is what we'll have if we insist on neighborhood schools and do nothing to desegregate our neighborhoods. We must decide whether apartheid is what we really want in this country - be it *de facto* or *de jure*...

> ...I urge you to help our people put aside the emotions of the hour and the fears of the past. Help them to understand the difference between a problem of transportation and a problem of justice. Help them to redirect their energies to our real quest, that of providing an equal opportunity for quality education to all of our children.

That is, after all, the bottom line issue and the often forgotten rationale in Brown.

We make no pretense of dealing with the political repercussions of busing for desegregation. That is beyond the scope of this report. The presence of the surrounding atmosphere is noted here simply because it is a countervailing influence in the complicated chemistry of the issue which must be considered in formulating the resolution of the real, substantial questions raised by busing programs.

SECTION III

BUSING: WHAT ARE THE OBJECTIONS

A. Four Axioms

As we move into the analysis of the specific problems and issues raised by busing for desegregation it would be well to keep a few axioms in mind that might help us "score" this particular tool of public policy.

1. No program of social change within the schools or in any other institutions -- with or without race as a factor -- is going to be free, or without pain.
2. The "price" of any social change is always paid in many currencies, ranging from only dollars on up to human life.
3. According to at least one school of thought, social/political problems are never really solved; rather, men are constantly in the process of trading one set of issues and concerns for another. It is the business of government to deal wisely, weighing various actions against inaction.
4. The ultimate usefulness of any public policy will be more the result of "leadership" - local, state, and national - than of changes in the law.

B. Six Assumptions

Deliberately, the following assumptions are raised and dealt with as they might be by the men and women who make

educational policy and those who send their children to our public schools. The purpose for this approach is to provide a rational framework within which the issue may be considered.

1. Busing for desegregation is different from other busing because our schools and our children are being made to bear the weight of a problem general to our society.

This assumption is simply not true. We pointed out in Section II of this report that, in fact, the school bus has been a prime tool in enforcing educational and (related or unrelated) social policy.

The following three fundamental purposes of the public school either could not be carried out or would be extremely hamstrung in the absence of busing:

a. Universal Education would be an unenforceable law throughout most of the United States because of the vast number of students who live beyond walking distance of any school;

b. the consolidated school which provides a generally better education than "the one-room school" and some economics of scale for the taxpayer would reach only a small fraction of the pupils it does now if there were no effective bus service; and

c. many special services such as vocational programs, transportation and education for the physically and mentally handicapped and other activities which often take place at diverse locations would probably not exist at all, or at best the services would only be available to those who could reach the facility

by their own means.

Less noble purposes have also been served by the school bus. Dual systems of education have always required elaborate "cross busing" systems. For generations this country's children, white and black, were made to bear all the burdens, including transportation, of our policy of educational apartheid.

2. The neighborhood school is both natural and to be preferred. Busing creates an unnatural situation and should be viewed as a violation of the principle that youngsters ought to attend the school nearest their home.

This is another good example of an "assumption" which many of us have made that has little empirical foundation. Every bit of data indicates that most children, at one time or another, perhaps through their entire elementary and secondary years have attended school away from their neighborhoods. For a wide range of reasons including overcrowding, vocational training, better curriculum offering, and racial balance, children have been bused out of their neighborhoods as a matter of course.

The 43%, who are bused at public expense, loom too large by sheer weight of numbers to be deemed an "exception".

Finally, for better or worse, the Federal Judiciary has acted specifically on this question in declaring in a variety of ways and in several different cases that there is no constitutional right of attendance at a neighborhood school, and it is for the local governing

body, not the parents,to make assignments of children to schools.

3. Busing for desegregation will result in pupils being transported excessive distances. This is a waste of valuable time and represents a hazard to their safety in and of itself.

There are two discrete questions here: 1) what is the evidence in school systems with busing programs with respect to the time/distance of bus travel, and 2) what is the track record of the American school bus for safety?

Before looking at the data it would be well to remember that the Swann case (which endorsed busing as one means of desegregating schools) held out the caveat that a busing plan might be voided if, "the time or distance of travel is so great as to...risk the health of the children..." Unfortunately we have virtually nothing to go on to determine how far is "too far." Much like the search for the optimum number of students per class that at one time fascinated so many educational researchers, this question is, at least for now, problematical.

We have found no national, aggregate data on the increase in time used or miles covered due to desegregation efforts. The information which is available is inconclusive, i.e., there seem to be as many instances of travel time/distance being decreased as increased. The largest accumulation on this subject is for Florida. Dr. Eldridge J. Gendron prepared the following table for his article in the March-April 1972 edition of Integrated Education titled "Busing in Florida: Before and After". (The counties for this study were chosen by creating

three geographical areas, sorting the counties into groups according to size and then drawing the target counties randomly from these clusters).

TABLE THREE

ESTIMATED MEAN NUMBER OF MILES DUE TO DESEGREGATION (MORNING ONLY) NINE FLORIDA COUNTIES, 1970-71

County	Mean Number Miles Without Desegregation	Mean Number Miles Actual	Estimated Changes Due to Desegregation	Percent Change
Bay	1,560.4	1,480.0	-80.4	- 5.4
Citrus	951.7	798.0	-153.7	-19.2
Columbia	1,132.0	1,143.6	11.6	1.0
Hendry	404.6	339.0	-65.6	-19.4
Jefferson	945.4	766.1	-179.3	-23.4
Martin	885.5	930.9	45.4	4.9
Pasco	1,579.9	1,988.8	408.9	20.6
Polk	4,492.3	4,662.0	169.7	36.4
Volusia	2,373.3	3,373.2	999.9	29.6
TOTAL	14,325.1	15,481.6	1,156.5	+7.5%

In summary, Gendron found an aggregate increase of 7.5% in the number of miles covered due to desegregation. For illustration, let us hypothesize a Florida student whose daily, morning bus ride was 8 miles prior to desegregation. These results would follow:

- If the student lived in four of the nine counties studied his/her ride would be reduced to as little as 6.5 miles;
- If he/she lived in one of the five counties reporting an increase

in miles traveled the maximum distance now traveled under desegregation would be 10.8 miles;

- The average, for all students across the nine counties, would be an increase per trip from 8 to 8.6 miles.

Pasadena, California provides an example of an extremely well planned busing system. While the number of miles traveled each day by the district's buses increased fourfold during the desegregation program, the average ride of each child only increased eight minutes -- the longest ride was held to thirty minutes each way.

Limited data from Georgia and Mississippi indicates that while more children are being bused they are traveling fewer miles. This phenomenon is easily accounted for when we consider the extended, contorted routes which many southern states maintained in the interest of segregation. Busing for integration in these areas has actually served to make the transportation system more efficient.

In the more urbanized areas of the country there is more reason to expect that an increased busing program would necessarily cause an increase in the per pupil milage. To a large degree this is true, but the image of small children bouncing around endlessly in a bus in the pre-dawn dark to complete their ride to school is largely fiction. In reference to Northern school districts the United States Commission on Human Rights found:

> Similarly, it is possible that an attendance area in a district might be so drawn that a bus trip after desegregation might be quicker than a ride or walk prior to desegregation.
>
> In most districts where pupils are being bused for desegregation, trips are rarely long. The average travel time reported seems to be 20 to 30 minutes. Trips of an hour or more would be out of the ordinary. A trip of a half hour or more would not bring the pupil home later than if he walked from a neighborhood school.

The importance of discrediting the notion that "the courts" and "liberal educators" are in a conspiracy to force small children to travel undue distances can be seen clearly in Pontiac, Michigan. The furor over busing reached such a pitch that 10 school buses were burned and the county was forced to watch a display of unabashed white racism that recalled the images of Little Rock, Arkansas, from what seemed like so many years ago.

The average total trip for the first year of desegregation in Pontiac was four miles less than it had been in the previous year.

This touch of irony is not isolated. The same result followed the desegregation ordered in Swann, the "father of busing" case. In fact, elementary school students (who are most often cited by the opponents of busing as the innocent victims of busing) have had their riding time reduced from one hour to 35 minutes. There is also documentation that children attending the white "academies" that have sprung up in the South are more apt to be bused and bused further than their fellow students who remained in the desegregated public school system.

It would appear that, while busing may indeed be an inconvenience for many children and parents, long-distance busing for desegregation is more myth than reality.

Travel on any road, for any distance, is a risk, and there can be no news more frightening or tragic to a parent than to hear that their child has been hurt or killed in a highway accident. There is no denying that increased aggregate miles traveled will probably be associated with an increased number of school bus accidents. Note that there is not necessarily a causal relationship between "miles" and "accidents." Faulty maintanence, defective manufacture, driver error, poor roads, and fate are all at work close to home as well as farther away.

However, it may well be the case that those new students who are being bused for desegregation are safer than they were when they walked or took a private car to school. A six-year study recently completed by the Department of Education, Pennsylvania, bears this out.

> The safety of that daily [bus] trip [to school] is paramount. Pennsylvania's experience on this point in our [State] Department of Education's most recent "Summary of School Accidents for a Six-Year Period" shows that pupils who were bused to school were three times safer than those who walked. Specifically, for the period of the summary, there was one accident for every 280 pupils who walked to school compared to one accident per every 898 pupils who rode to school on buses.
>
> Homer C. Floyd, Executive Director
> Pennsylvania Human Relations Commission
> August 4, 1971

The National Safety Council has pointed out that children in the first six grades sustain a higher injury and mortality rate walking to school than riding the school bus. This same body has declared school buses four times safer than commercial buses and forty-two times safer than private cars.

It seems that the answer to this very valid concern lies in more time, energy and money being devoted to the development of even safer buses and not in alternative forms of transportation or even in closer schools.

4. <u>The minority, ethnic communities are also opposed to busing. In addition to sharing many of the concerns of white parents there are those who see busing as another ploy to close Black schools, fire Black teachers and dissipate the possibility of these communities gaining control over the education of their children</u>.

To a substantial degree this is a legitimate criticism of busing. Many pupils and parents who are also Black, Chicano or members of other deliberately disenfranchised ethnic groups feel as buffeted by powers beyond their control as do their white counterparts. In addition, there is mounting recognition and development of ethnic pride from virtually every corner of our culture. Kenneth Clark, the Black psychologist usually identified with the integrationist point of view, has capsulized this feeling in a recent article:

> A counter response (reinforced by the rise of a Black power, racial separatism reaction to northern white backlash), demanding decentralized control of the schools in minority group neighborhoods, has arisen as a desperate substitute means for achieving effective education for Negro and Puerto Rican children. It was no longer possible to sacrifice another generation of children in pursuit of the seemingly persistently illusive goal of desegregation. Blocked in their attempt to achieve good education through serious desegregation, the more thoughtful, articulate and activist minority group parents are demanding direct accountability from the professionals through community control of the schools.[1]

This demand is well founded. The examples are legion of the Black high school which is either closed or converted to a junior high when desegregation takes place. Black teachers and principals, because they are often low on the seniority lists, are the first to be dismissed if jobs must be eliminated.

In Pontiac, Michigan, the school district elected to compensate for the cost of busing by laying off nearly 200 teachers. Of these, 70 percent were black, a figure far out of proportion with the number of Black teachers in the system.

Preston Wilcox, writing in the same volume with Dr. Clark, has articulated the predicament of the Black student and a common failure of integration programs that work like one-way streets:

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[1]Kenneth Clark, "The Dangerous Inefficiency of Racially Separated Schools," Integration and Separatism in Education, ed. Samuel Goldman and Peter L. Clark (Syracuse: Syracuse University Press , 1970), p. 9-18.

An important part of this issue relates to the recognition by Blacks of the need to control the content of the educational experiences of Black students. This recognition is based on the lack of good intentions and the questionable availability of skills within the white community to educate Blacks humanely and meaningfully. Based on the achievement scores, the dropout rates and the like for Black students, one would be hardput to demonstrate the opposite view. Even in so-called integrated schools education was directed toward the "talented tenth." Integrated schools were never designed to educate the Black masses.

Pentecoste has defined integration thusly: "Integration as a theory is basically a willingness to give up one's own attributes and lose racial self-identify by merging with the dominant group." Accordingly, integration requires that Blacks think and behave white and reject themselves and the Black masses. Frazier even suggested that Blacks had to exaggerate the behavior of their white middle-class counterparts in order to integrate. From this vantage point, integration was available only to those Blacks who could comfortably "play white" - and were "middle-class" enough not to remind white people that Black students are essentially and ethnically Black. Black students had to become Black Anglo-Saxon Protestants in order to be educated.

Two other statements ought to be made about the integration question, namely, its failure to foster "academic curriculum integration"; and its tendency to develop people who became a part of the problem and seldom a part of the solution. The rash of Black studies Programs is a direct reflection of the failure of "integrated" white supremacist education. Black students are refusing to attempt to fully integrate themselves into racist institutions which educate Black students to hate themselves as Blacks. White-controlled institutions of higher education have systematically overlooked the intellectual and political interests of 25 million Black people and persisted in talking about the right of free inquiry and academic freedom. Similarly, large numbers of such institutions have responded to their own essential racist practices with a racist response. It is racist for white-controlled institutions to agree to set up Black Studies Programs without modifying the basic content and form of the white-controlled programs. The white radical student protests have been largely based on the thesis that they do not want to be educated to become white Uncle Toms

> and/or white racists. The failure of such programs to develop counter-racist content, forms and experiences for white students compounds the refusal to address themselves honestly and forthrightly to the legitimate interests of Black Students.[2]

Wilcox's insistence that "humanism" be the prime goal in our public education systems raises the question of how good an education waits at the end of the bus ride for any child, black or white. The harbinger to be garnered from the interface of Clark's and Wilcox's ideas is that ethnic communities in metropolitan areas are increasingly going to close ranks to prevent the educational establishment from deciding for them what is good for their children.

It is significant that, while a substantial part of this country's majority race has had to be dragged to the threshold of an integrated society, many minority group leaders have begun to study the types of educational programs that affect equal educational opportunity. In hearings before Senator Walter Mondale's Committee on Equal Educational Opportunity, this theme has been sounded time and time again. The message seems clear: equality is not synomomous with uniformity.

5. Busing discourages participation in the extracurricular activities of the school.

An important part of the school day begins when school ends. The opportunity to compete in interscholastic sports, or to be part of an organization pursuing some special interest, is a vital additive

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[2]Preston Wilcox, "Black Control: In Search of Humanism", Integration and Separatism in Education, ed. Samuel Goldman and Peter L. Clark (Syracuse: Syracuse University Press 1970), p. 20-21.

to the educational process for many children. To be sure, there may well be some inconvenience to the students, their parents, and school officials. This inconvenience needs to be balanced against two other considerations.

First, many schools already provide an activities bus for the express purpose of transporting students who stay after school, for whatever reason. As the number of children who are bused into a given school increases, there will probably be a need to expand this service. It is important to remember that what we are dealing with here is a technical "how to" question, and not an overriding policy issue. Concern over the availability of extracurricular activities and concern over the safety of the students on their way home are legitimate concerns and deserving of a solid, straightforward answer. The answer is, however, one which can be worked out, divorced from any policy consideration of busing for desegregation.

Second, the tail should not wag the dog. While sports, cheerleading, and the whole array of other after-school activities are important, educational policy cannot be made on the basis of some inconvenience to the individuals who participate in those activities.

The quality of extracurricular programs is apt to be the product of how well the experiment in integration is going at any given school. These activities, and the extent to which students participate in them, are not really an independent variable; rather, they are an expression of whether or not the community of the school is learning to live together.

6. Busing for desegregation drives whites to the suburbs.

The flight of families to the suburbs and the concurrent decline in the tax base of our cities is a problem which should be of great national concern. However, any attempt to draw the line of a causal relationship between inauguration of a busing program and the phenomenon of white flight is on shaky ground.

People leave the city for the suburbs for a variety of reasons -- taxes, fear, space for the children to play, better schools, a less polluted environment. It is difficult to draw firm conclusions concerning how any combination of these factors affect different people. It seems reasonable that those who move "because of the blacks" would leave cities whether or not their children were involved in a busing program.

The overall quality of urbar elementary and secondary education desperately needs to be improved. Visible progress in improving urban educators might help reverse the suburban trend and begin to entice some families to return to the city. Those responsible for our public education system must take greater pains to honestly demonstrate that students are receiving a high quality education in our cities.

Those who consider moving to the suburbs should remember the the decision in Richmond mentioned earlier. If that judgment stands, there will be no sanctuary in crossing the city line; there will be no governmental wall behind which to hide.

Section IV

THE IMPACT OF BUSING: THE CHILD

A. The Basic Question

In her book, Busing and Backlash, Lilian B. Rubin reports a piece of political oratory used by an anti-busing candidate for the Board of Education in Richmond, California, attacking the incumbents:

> They were just hypocrites. Everyone knew they were for busing but they didn't have the nerve to stand up and fight for what they believed in. They always weaseled out of answering the questions and tried to insist they were talking about education. But what's racial balance got to do with education?

What does racial balance have to do with education?

The present state of research is analagous to the three blind men examining different parts of the elephant and coming to different conclusions about the nature of the beast. Within the context of claims and counterclaims, SURC has tried to identify data which are revealing about the educational and social effects of busing per se. The staff originally outlined a series of elaborate variables and cross-reference points with respect to busing programs. As is often the case, the outline was not responsive to the facts. Without substantial field work, it is impossible to put busing programs into discrete, well-defined categories (e.g., court-ordered, HEW-"inspired", voluntary, two-way, etc.) that would help to separate phenomena of busing from general effects of integration. In any event, busing cannot logically be discussed apart, for example, from the general effects of the multiracial classroom or the relationship

of race to levels and relative burdens of school finance. To view busing for desegregation as a discrete area of inquiry would deny that America is a race-conscious country and that education is a function of the political process. Both of these propositions are obviously true. Yet a thorough report on this package of issues is beyond the scope of this report and is probably too global for any one research project. Thus, the following few pages are meant only to orient the reader to the larger conflict among researchers within which the debate over busing goes on.

B. The Range of Opinion

While the research community is often without answers, it never lacks a wide range of opinion. The major contemporary positions with implications for the busing issue are associated with individuals.

1. Jensen's Argument

Arthur R. Jensen, a researcher at University of California at Berkeley, recently published a controversial study which spotlighted genetic factors as being the prime source of the disparities between the performances of white and black children. Jensen argues that differences in intelligence and "the ability to learn" are largely inherited and that these differences explain the failure of compensatory education programs.

Implicit in this position are three assumptions: 1) that such programs have failed; 2) that their failure is due to the beneficiaries'

"inferiority"; and 3) that this inferiority is genetic. Each of these assumptions represents its own new area of inquiry.

While it is true that questions of scientific research are not to be resolved by majority vote, it is clear Jensen's position is shared by a small minority of social scientists. Substantial evidence exists to suggest that eighty-five percent or more of all cases of mental deficiency (including retardation) are attributable to organic, non-genetic factors such as lead poisoning, malnutrition, and poor pre-natal care and to environmental or cultural deprivation. Simply put, the majority of social scientists hold that low levels of intelligence or performance are the consequence of poverty, not racial inferiority.

2. Jenck's Position

A more reasonable view of this general problem, but one which has yet to prove itself more credible than the Jensen position is that espoused by Christopher Jencks of Harvard University. While Jencks subscribes to the notion that a child's ability to learn is pre-determined, his major thesis is that in terms of academic achievement and future earning power school integration is of doubtful value. Jencks argues that one can't link the quality of a child's education through the maze of standard achievement measures to an easily defined, popular goal such as economic success. Because he has touched different parts of the elephant without being able to conjure up a picture of the whole, Jencks has deemed the elephant an imponderable and improbable animal.

Even prior to publication, his book, Inequality--A Reassessment of the Effect of Family and Schooling in America,* has drawn considerable criticism regarding the choice and manipulation of the data on which the book is based. We would like to add that to posit that inequality in the education process is not a significant factor with respect to later economic benefits without also positing a full employment society and a race prejudice free society is to stack the deck and insist on playing a game where the outcome is pretty much assured.

However, we also see a great deal of value to practitioners and researchers alike in the harsh criticism of reform and remedial education programs. If they accomplish nothing else, Jencks and others like him will help "demythologize" education. For too long we have accepted too many "givens" about the nature of the educational process. There are those who say that such criticism will damage support for education in the body politic, but unless we learn to proceed honestly in planning what we should and should not ask from our schools, we will only be generating new frustrations as the grand designs and promises of the 1960's continue to fail to materialize.

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*Christopher Jencks, et. al., Inequality-- A Reassessment of the Effect of Family and Schooling in America (New York: Basic Books, Inc. 1972).

3. The Rand Report

A recent study of the research findings concerning the effectiveness of schooling by The Rand Corporation concluded that, "Research has not identified a variant of the existing system that is consistently related to student's educational outcomes". They then added the following words of caution in interpreting this proposition.

> We must emphasize that we are not suggesting that nothing makes a difference, or that nothing "works." Rather, we are saying that research has found nothing that consistently and unambiguously makes a difference in student outcomes. The literature contains numerous examples of educational practices that do seem to have significantly affected student outcomes. The problem is that other studies, similar in approach and method, find the same educational practice to be ineffective; and we have no clear idea of why this discrepancy exists. In short, research has not discovered any educational practice (or set of practices) that offers a high probability of success over time and place.
>
> We must also emphasize that we are not saying that school does not affect students' outcomes. Our only knowledge of what American students' outcomes would be were they not to attend school at all is on the basis of isolated and unrepresentative examples. Educational research focuses on variants of the existing system and tells us nothing about where we might be in the absence of the system.
>
> We can view ourselves figuratively as being in a "flat" area. Movements in various directions from our current position do not seem to affect our altitude. Furthermore, we do not know whether this flat spot is at the bottom of a well, on a broad plain, or atop a tall plateau.*

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*Harvey A. Averch, et al., How Effective Is Schooling?--A Critical Review and Synthesis of Research Findings. (Santa Monica, California: The Rand Corporation, 1971), pp. x - xi.

This same point may be extrapolated to the larger issue of how our schools affect our social and economic practices and structures. While the American public school is a potent institution, it is only one factor in the solution of our intricate and difficult domestic problems.

4. The Fleischmann Report

A major thrust in the area of educational policy research was made by the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education (the Fleischmann Commission). Several sections of the Fleischmann Report are germane to school busing because they deal with socio-economic status and school performance.

> The close parallel between school success and the child's socio-economic origin suggests that something is wrong with the way our educational system operates. The Commission is well aware that innate learning ability varies widely from student to student, but it has seen no persuasive evidence that such innate ability correlates with family income, race, sex, parental occupation or ethnicity. In theory, therefore, differences in average group levels of performance should be insignificant. In fact, they are not: Equality in educational opportunity does not exist for the students of New York State. We conclude that in schools in which differences in the average performance levels of social class, racial and geographic groups exist, public policy should be directed toward their elimination.
>
> Removing these inequities deserves top priority, even though New York State students, when compared to the rest of the nation, rank at or near the top on most measures of student performance. When viewed over time, most aggregate measures of student performance show an improvement. More students in New York State graduate from high school and go on to college than ever before. This has meant that more children from lower socio-economic status (SES) backgrounds finish high school and attend college. What has not improved

is their standing relative to their peers from more affluent backgrounds. The problem is particularly distressing because a large proportion of the low-SES children in the state come from certain geographical regions and racial and ethnic groups.

Socio-Economic Disparities in Student Achievement

Many studies have shown the relationship between certain socio-economic measures and achievement in school. One study undertaken for the Commission by Walter I. Garms examined the relationship between various socio-economic measures and the percentage of children having abnormally low reading and arithmetic achievement in the third grade of 301 schools in New York State in 1970. Using 39 socio-economic variables, it was possible to predict approximately 65 percent of the variation among schools in "percent below minimum competence in reading" and "percent below minimum competence in arithmetic."

According to this study, 58 percent of the variance in student achievement was predicted by three socio-economic factors--broken homes, overcrowded housing and education of the head of household. Using a large representative sample, Garms found racial and ethnic variables to be of much less importance than these socio-economic indicators. When the racial and ethnic variables were introduced into the analysis, they accounted for less than an additional 2 percent of the variation in student achievement. This suggests that the high failure rate of blacks and Puerto Ricans, for example, is more a consequence of their disproportionate membership in lower socio-economic classes than an independent function of cultural disadvantage related to race or ethnicity.

The results of the Pupil Evaluation Program (PEP) batteries, and of the Regents Scholarship and College Qualification Test (RSCQT) of class rank in high school, demonstrate further that socio-economic factors are related to achievement in New York State.*

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*New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education, Report of the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education (January 1972), pp. 1.29 & 1.33.

5. Weinburg's Analysis

With Fleischmann comes the question, "Will racial/economic integration of our schools improve the situation for some, for all, or for none of the students?"

Dr. Meyer Weinburg in his comprehensive review of the subject entitled Desegregation Research: An Appraisal came to the following conclusion:

> Let us now turn to the question that opened this chapter: How has racial desegregation affected academic achievement? The evidence is strong that desegregation improves the academic achievement of Negro children. In a few cases, desegregation did not provide such stimulation; and in a rare case or two, Negro children's achievement fell. The evidence is even stronger that white children fail to suffer any learning disadvantage from desegregation.
>
> If, however, the fact of accomplishment under desegregation is clear, the reasons for the accomplishment are by no means clear. The next question we must consider is: Why has racial desegregation had a positive learning effect on Negro children? We thereupon necessarily enter the far more complicated and subtle area of motivation, feelings, and aspirations.*

About the research dealing with motivation, self-concept and aspirations Weinburg offered this summary:

1. Negro students' aspirations are as high and often higher than those of white students.

2. If realism is defined by its correspondence with the status quo, then Negro youth in college are highly realistic aspirants.

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*Meyer Weinburg, Desegregation Research: An Appraisal (Bloomington, Indiana: Phi Delta Kappa, 1970), pp. 87 & 88.

3. The social climate of the school constitutes an autonomous influence upon aspirations.

4. If the community as a whole were to raise its aspirations for the low-status student, including the Negro, there would probably be an enormous educational stride forward.

5. To disentangle the separate effects of race and class upon self-concept is extremely difficult.

6. Desegregation has most often benefited the Negro child's self-esteem and virtually never harmed it.

7. Historical factors such as the civil rights movement are critical in raising self-esteem of Negro children.

8. Desegregation has facilitated Negro acceptance of color as a constructive factor, while heightening Negro willingness to live and learn with whites.*

For full balance in this spectrum of research, the work of Drs. Guthrie, Kleindorfer, Levin and Stout, Schools and Inequality, may be placed in juxtaposition with Christopher Jencks'. After concluding the quality of school services provided a student was associated with the socio-economic status of the student's household (in concurrence with Fleischmann), the study then posed the question of whether the quality of school services was related to student performance. The answer was a very clear yes.

> From an inspection of these digested results, it is clear that there is a substantial degree of consistency in the studies' findings. The strongest findings by far are those which relate to the number and quality of the professional staff, particularly teachers. Fourteen of the studies we reviewed found teacher characteristics, such as verbal ability, amount of experience, salary level, amount and time of academic preparation, degree level, and employment status (tenured

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*Ibid., p. 93.

or non-tenured), to be significantly associated with one or more measures of pupil performance.

In order for school staff to have an effect upon students, however, it is necessary that students have some access to such persons. And, indeed, we also found that student performance was related to some degree to contact frequency with or proximity to professional staff. This factor expressed itself in variables such as student-staff ratios, classroom size, school or school district size, and length of school year.

In addition to findings in support of the effectiveness of staff, a number of studies under review also present results to suggest that service components such as age of school building, adequacy and extent of physical facilities for instruction also are significantly linked to increments in scales of pupil performance. Finally, as might be expected logically because all the foregoing components translate into dollar costs, we find that measures such as expenditures per pupil and teachers' salary levels are correlated significantly with pupil achievement measures.

In summary, we are impressed with the amount and consistency of evidence supporting the effectiveness of school services in influencing the academic performance of pupils. In time, we would wish for more precise information about which school service components are most effective and in what mix or proportion they can be made more effective. Nevertheless, on the basis of information obtained in the studies we have reviewed, there can be little doubt that schools "can have an effect that is independent of the child's social environment." In other words, schools to make a difference.*

While the foregoing is not meant to be either a full review or an exhaustive description of the various works cited, it should be considered an important overview of the research which

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*James W. Guthrie, George B. Kleindorfer, Henry M. Levin, Robert T. Stout, Schools and Inequality: A Study of Social Status, School Services, Student Performance, And Post-School Opportunity in Michigan (The Urban Coalition, 1969), pp. 129-130.

underscores a major fact: the efficacy of busing can only be be discussed in the contest of the much wider debate on the merits of social desegregation of our public schools.

C. Efficacy of Busing

Whether busing for desegregation is useful in promoting quality education and reducing racial/class tensions is an open question. With this statement it may seem that this report has made a very long run for a short slide. The benefit of twenty/twenty hindsight indicates that we should not have expected to find more -- the problem of equal access to the institutions and privileges of our society has existed for generations, and we should not expect any particular limited effort to promote equity in the sharing of our country's resources to show striking, immediate results.

It is presumptuous to suppose that simply introducing our children to each other will foster the ambiance of goodwill and friendship that has been the exception in our country's race relations. It is likely to be more in terms of generations than years that the real, positive effects of busing will begin to show. If there are such benefits, they are apt to have their ultimate demonstration in the conduct of the children presently involved in busing programs as they react to questions of public policy in adult life, as citizens, voters, and parents.

An underlying limitation of all the research on busing experiments is that most busing programs are invariably designed in haste, under acute political pressure, and perhaps even under court order. These

programs are task-oriented and little thought is usually given to the need to trace their effectiveness with research.

A final word of caution in evaluating busing research is in order: While courts may force schools to desegregate, no one has yet figured how to insure real integration in a single classroom or a single school. There are too many examples of either the logistics (e.g., tracking) being used deliberately or inadvertantly to maintain real segregation within a legally integrated school. This problem is of course difficult to quantify and elusive to evaluate. However, it is reasonable to suppose there are qualitative differences in busing programs, and that these subtleties are crucial, unrecorded factors in most of the research.

D. Conclusion

Five conclusions can be drawn from a review of the research literature. However, these conclusions must be interpreted in the context of murky, incomplete and contradictory research.

1. The firmest conclusion that can be drawn from the research is that the effects of busing on student performance are cumulative. Consistently higher scores are recorded by minority students who participate in the busing program for longer periods. It is common for test scores to be statistically insignificant for up to two years before any substantial gains begin to show.

2. Busing will also more probably have an effect on younger pupils. Several studies show significant gains for minority group kindergarten and first grade pupils. They also reveal a marked

decline in the size of the gain for pupils who begin their busing program as third or fourth graders. By the fifth and sixth grades the evidence is that segregated and desegregated minority youngsters will perform on a par.

It would seem that the effects of segregation on minority students set in hard and early. With respect to Junior and Senior High School students less is known, but it seems that the usefulness of an integrated secondary education depends on the psycho-educational preparation of the individual pupil.

3. There is little research concerning the effect of busing on college aspirations and performance. What there is supports two propositions: A) the integrated group is more apt to enroll in some form of higher education, and B) they will enroll in more prestigious institutions, and in four-year colleges and universities at a significantly higher rate than the control (segregated) group. The integrated students suffer a higher drop-out rate, but applying any reasonably differential analysis to the two groups will probably still put the integrated students "ahead".

4. There is no reason to believe that either the academic performance or the aspirations of white students will suffer from being bused. Again, caution must be urged because of the small amount of "two-way" busing that has been instituted. But, to date, there is no reason to expect that the measurable performance of white students will be adversely affected.

5.The presence or absence of high quality school services at the end of the bus ride far outweighs the question of "who goes where" in determining the educational impact of a busing program. The following summary of the data on this point was recently offered by Drs. Marshall Smith, Clarence Normand, Elizabeth L. Useem, and Thomas F. Pettigrew:

> An evaluation of all of the available evidence points to a more encouraging, if complex, conclusion. (a) The academic achievement of both white and black children is not lowered by desegregation. (b) The achievement of white and especially black children is often significantly enhanced: when integration, not just desegregation, is at least emerging; when integration is begun in the kindergarten and first grade; when interracial staffs teach and administer in the school; when classrooms, not just the schools, are desegregated; when school services are not reduced and remedial training not removed with the onset of desegration; and when more open classrooms and team teaching are utilized for heterogeneous ability classes rather than more abiltiy grouping to maintain homogeneous classrooms. (c) Few if any substantial achievement gains are likely to be recorded for either racial group when most of these six conditions do not hold.

E. Racial Attitudes

Race-consciousness and racial strife have been one of the main threads of this country's history. Our social and political life is determined to a far greater degree than any of us care to admit by the color of our skin. In spite of, or perhaps because of, this phenomenon we know surprisingly little about each other.

In The Evidence on Busing, Dr. David J. Armour presents an impressive array of statistics designed to prove that there is actually a decrease in positive attitudes toward race relations as desegregation takes place.

His conclusions are drawn from the METCO program in Massachusetts which buses black children from Boston to the predominantly white, middle class suburban schools near the city, and from other busing programs.

> One of the central sociological hypotheses in the integration policy model is that integration should reduce racial stereotypes, increase tolerance, and generally improve race relations. Needless to say, we were quite surprised when our data failed to verify this axiom. Our surprise was increased substantially when we discovered that, in fact, the converse appears to be true. The data suggests that, under the circumstances obtaining in these studies, integration heightens racial identity and consciousness, enhances ideologies that promote racial segregation, and reduces opportunities for actual contact between the races.
>
> There are several indicators from the METCO study that point to these conclusions. The question which speaks most directly to the 50 percent racial balance standard suggested by the Civil Rights Commission asked: "If you could be in any school you wanted, how many students would be white?" ...While both the control and the bused students started out fairly close together in 1968 (47 percent and 51 percent, respectively), two school years later the bused students were 15 percentage points more in favor of attending non-white schools than the controls (81 percent compared to 66 percent), although the differential change is not statistically significant. The changes for the controls (both the panel and the full cross-sections) indicate that the black community as a whole may be changing its attitudes toward school integration, but the bused students appear to be changing at a more rapid rate. Ironically, just as white America has finally accepted the idea of school integration (Greeley and Sheatsley, 1971), blacks who begin experiencing it may want to reject it.
>
> The bused students are much more likely to support the idea of black power than the control students, going from a difference of 11 points in 1969 to 36 points in 1970. We were also able to construct a Separatist Ideology Index from responses to a series of statements about black/white relations (e.g., 1. "most black people should live and work in black areas." 2. "Black and white persons should not intermarry.") The scores range from 0 (anti-separatist)

to 4 (pro-separatist). From 1968 to 1970 the control group barely changes, increasing from 1.4 to 1.5. The bused group, however, changed from 1.4 to 1.8 - a statistically significant change of about one half a standard deviation. This is the clearest indication in our data that integration heightens black racial consciousness and solidarity.

The changes do not appear to be in ideology alone. From 1969 to 1970 the bused students reported less friendliness from whites, more prejudice and less frequent dating with white students (fig. 10). In other words, the longer the contact with whites, the fewer the kinds of interracial experiences that might lead to a general improvement in racial tolerance.

To what extent might these changes be a result of negative experiences with white students in the schools? We do not doubt that there has been consdierable hostility shown by certain groups of white students. Nonetheless, although the evidence is not complete, what we have indicates that the white students themselves were negatively affected by the contact. Support for the busing program was generally high among white sophomores in the eight high schools studied especailly among middle-class students in the college preparatory tracks (Useem, 1972). For example, 46 percent of all students were "very favorable" to METCO (only 11 percent were "not favorable"); 73 percent felt METCO should be continued; and 52 percent agreed that there should be more METCO students (20 percent disagreed and 27 percent were not sure). But those students who had direct classroom contact with bused black students showed less support for the busing program than those without direct contact. In fact, the kind of students who were generally the most supportive - the middle-class, high-achieving students - showed the largest decline in support as a result of contact with bused black students. This finding is based on cross-sectional data and does not indicate a change over time, but it is suggestive of the possibility that a general polarization has occurred for both racial groups.

The data from the Ann Arbor and Riverside studies give some support to these findings, although again there were no directly comparable measures. Moreover, it is unlikely that the concept of ideology is relevant to elementary students. The Ann Arbor study included a sociometric test, whereby children could indicate how much they liked each classmate. Black students at all grade levels suffered a loss of peer status when they switched from a segregated to an integrated school, although the results were statistically significant only for second and third grade girls and fourth and fifth

grade boys. That is, these black children were liked less by their new white peers than by their previously all-black peers. Also, the level of acceptance was considerably lower for black students than for white students. On the other hand, the black students tended to be more positive about their white peers after integration than they were about their black peers before integration, although the changes are not statistically significant.

The Riverside data more clearly supports the conclusion that integration heightens racial identity and solidarity. Data from a test in which children rate pictures of faces portraying various ethnic and racial groups showed that fewer cross-racial choices were made after integration than before integration. For example, one rating task required that the children choose the face that they would "most like for a friend." Both black and white children tended to choose their own race to a greater extent after one year of integration than before integration (Gerard and Miller, 1971). The Riverside study also concluded that these effects were stronger with increasing age; that is, the cross-racial choices declined more in the later grades than in the earlier grades.

To avoid any misinterpretation of these findings, we should caution that the measures discussed here do not necessarily indicate increased overt racial hostility or conflict. This may occur to some extent in many busing programs, but our impression based on the METCO program is that overt racial incidents initiated by black or white students are infrequent. The polarization that we are describing, and that our instruments assess, is characterized by ideological solidarity and behavioral withdrawal. Our inferences pertain to a lack of racial togetherness rather than to explicit racial confrontations or violence. While it is conceivable that a connection may exist between these ideological shifts and open racial conflicts, such a connection is not established by the studies reviewed.

There are two other qualifications we must place on the interpretation of these data. First, as of 1970 the majority of the bused METCO students still supported general integration ideology. Only 40 percent of the METCO students would ideally prefer schools with a majority of black students (compared to 28 percent of the controls); 60 percent of METCO students believe that "once you really get to know a white person, they can be as good a friend as anyone else" (compared to 78 percent of the controls); and 58 percent of METCO students do not agree that "most black people should live and work in black areas, and most whites should live and work

in white areas" (compared to 71 percent of the control students).

> The main point that we are making is that the integration policy model predicts that integration should cause these sentiments to increase, while the evidence shows they actually decrease, leaving the bused students more opposed to integration than the non-bused students. Only further research can determine whether this trend will continue until the majority of bused students shifts to a general anti-integration ideology.
>
> Second, group averages tend to obscure important differences between individual students. While we do not deny the existence of racial tension and conflict for some students, other students and families (both black and white) have had very meaningful relationships with one another, relationships made possible only through the busing program. It is very difficult, indeed, to weigh objectively the balance of benefit and harm for the group as a whole. The main point to be made is that a change in a group average does not necessarily reflect a change in every individual group member.*

It is our staff's view that Dr. Armour has taken too narrow a view of the role integrated education is to play in building bridges between the "two Americas" described by the Kerner Commission. The clash between black and white students certainly should not be unexpected, and it is important that the meaning of this racial posturing between and among the students be understood. The purpose of integration is not to create homogenized carbon copies out of our country's children. One of the tasks of an integrated classroom should be to help students be proud of their separate heritages, and learn to respect the dignity and history of others.

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*David J. Armour, "The Evidence on Busing," The Public Interest, No. 28, Summer 1970.

It should also be pointed out that disruptions based on racial conflict are grounded in more subtle factors than the mere presence of both races in the same building.

In November of 1970, a report of riots and disruptions in public schools was executed by the Policy Institute.* The data in this study indicated that when the disruptions had a substantially racial basis, the following two generalizations could be made about the school:

1. the incidence of such disruptions was far greater in schools with a minority population of 6-25%;
2. disruptions with a racial basis were far less apt to occur in schools with genuinely integrated staffs.

Dr. Gordon Allport was one of the early exponents of the "contact" theory of intergroup relations.** His proposition was that we might expect positive effects from intergroup (inter-race) contacts when the conditions of that contact minimized its "threatening" nature. Dr. Armour finds this theory unsupported by his research without examining the possibility that the environment within the schools was extremely threatening to whites and blacks alike. Conditions such as a segregated faculty, a de minimus number of black students, lack of (or poor) preparation for the experiment could easily lead to quickly constructed racial walls.

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*Stephen K. Bailey, Disruption in Urban Public Secondary Schools (Syracuse, N.Y.: Syracuse, University Research Corporation, 1970).

** Wesley Addison, Gordon Allport, The Nature of Prejudice (Cambridge, Massachusetts, 1954).

The examples of friction, fighting and militancy (black and white) which we see daily in our schools are difficult to categorize. Are they caused by the large dose of social tension that most schools import daily from the wider community? Do these tensions arise because of integration? There is no neat way to separate out the causes of this conflict. Even assuming that racial issues become more visible in an integrated school, and they do, this is not necessarily bad. The development of racial/ethnic pride is a vital force for positive change, and to suggest that we suppress its growth is to argue for the status quo.

We close this section of our report with this uncomfortable notion: there is much that is not known about the value of busing for desegregation, but increased knowledge concerning the educational and social impact of busing will probably not make any difference.

Dr. Daniel P. Moynihan has suggested that problems of social policy can be divided into two classes, knowledge problems and political problems. The former arise where there is consentious on what action is to be taken but a lack of know-how with respect to achieving these goals. The latter arise when the aggregate support for change is not enough to provoke the political system into operation. While there are certainly knowledge gaps about busing, it is our opinion that no volume or quality of research will change many minds or votes. Busing is a political problem.

This proposition was best stated by psychiatrist Dr. Robert Coles:

I never saw children sick because they were being bused;

I never saw children become emotionally disturbed because they were bused; I never saw children's school work suffer because they were bused. Physically, psychologically, educationally, the experience of busing was, in fact, neutral. (emphasis added)

What mattered was where the children felt themselves going, where their parents felt the bus was taking their children (to what school, for what purpose) and also, very importantly, what went on in the bus. Was the driver friendly or cold? Did he talk with children or ignore them? Were there others aboard who pointed out and explained things to the children? Often enough this turns a bus ride into an important psychological and educational experience in its own right: a different neighborhood looked at, talked about, comprehended in an altogether new way.

Busing is neither new nor rare in this country. Children ride buses every day, usually with the enthusiastic encouragement and support of their parents, their community, and no doubt, their elected Congressmen (not to mention the President). I have watched boys a i girls day after day on those buses, black children and white children and I have not seen them get sick, or disturbed, or apathetic. I have not been called upon to practice medicine or child psychiatry. I have not seen violence or disorder. Nor have I often seen time wasted. The children have been awake, alert, vastly interested in what they see of their city (although children who never board a bus often find themselves bored when they sit in certain classrooms).

The issues of busing, I say from personal observations over a long period, is not a medical one. It is not per se a psychiatric one. It may well not even be an educational one (except that some parents actively seek out busing for their children - even pay to have them bused long distances to private schools). Busing as a political issue ought to be argued openly with everyone's cards on the table. It does not even help to talk about "time wasted busing." Children can and do learn all sorts of things on buses - and can and do fail to learn while siting solidly in classroom chairs for hours on end. (emphasis added)

I have no doubt that we will continue to hear about the "harm" busing does to children, and I can only hope that more clinical observers will go out and see for themselves whether such harm can be documented. I fear, however, that our clinical observations are not going to be heeded, that they

are not really what people are waiting for or have any interest in. (emphasis added)*

*Robert Coles, "Does Busing Harm Children?" Inequality in Education No. 11, March 1972, p. 25.

SECTION V

ALTERNATIVES TO BUSING

A. A Word of Caution

The consideration of alternatives to busing must begin with a straightforward statement of the policy objectives it is hoped to achieve. It will be presumed that "better education" and a "quality education" for all children--however variously defined--will remain a constant expression of all policy formulations. Beyond that, the search for alternatives to busing necessarily depends on the commitment which exists to achieving integrated schools.

If there be a firm commitment to direct all possible effort toward the goal of desegregated and integrated education, there are, in most cases, no real alternatives to the transporting of some pupils to schools outside of their neighborhoods. This conclusion is dictated by the prevailing racial imbalance in residence patterns. In fact, effective programs of housing desegregation are an alternative to busing consonant with the goal of desegregated schools. They offer remedy on a long-range basis, however, and are not a direct nor immediate alternative for educational policy makers.

Meaningful alternatives to busing consistent with a maximum pursuit of integrated education are alternatives only to the extent that more can and should be done than simply the shuffling of pupil allocations. They are alternatives that ought not to be implemented singly but

combined with one another in programs aimed at more than the achievement of mere desegregation.

A greater number of alternatives can be considered within a policy perspective that sees integrated schools as desirable but rejects the feasibility of creating them through comprehensive programs that would force desegregation. They are alternatives in the sense that any busing which transpired would be based on voluntary consumer choice, i.e., the decision of parents and students. These alternatives would provide some reasonable expectation that greater equality of educational opportunity would result. It could also be hoped that the cause of desegregation/integration would be served, but there would be no assurance that fully integrated education would even be approached.

The most clearcut alternatives to busing are those available subsequent to a policy decision that the larger social goal of integration is unattainable, misguided, or undesirable; or the decision may be that, while a desirable and undismissable goal, an integrated society is poorly and inappropriately pursued through the educational system. For those who have thus "given up" on integration, the burden of providing equal educational opportunity weighs particularly heavily on the selection of alternatives.

B. "Basic" Alternatives

A strong policy commitment to desegregation and meaningful integration may stem from a praiseworthy conviction that there exists a moral imperative to improve relations among races and to broaden the scope of equal opportunity. Aside from moral conviction, such a policy commitment

can be viewed as a very pragmatic reading of the auguries to be seen in court decisions such as Swann, Keyes, and Bradley reviewed in Section II. As Gregory Coffin has observed, "Rhetoric may not dictate [implementation of desegregation plans]..., but a review of recent history does."*

A review of recent history also demonstrates that implementation of desegregation plans is very difficult and increasingly problematic as the patterns of segregation under attack become blurred by de facto circumstances such as housing and staffing patterns. In both Keyes and Bradley, concrete action has been held up by appeals; Keyes has been in the courts for three years already. In the streets and on the political stump, the difficulties are by now a truism.

The difficulties faced by the implementation of desegregation plans necessitate programs that provide for more than the mere assignment and transporting of pupils in order to satisfy ratios of racial "balance". Desegregation plans which rely solely on the tool of busing are likely to prove unworkable from the beginning. Any hope for achieving integration is futile in such a context.

Whatever else desegregation is, it is a major educational innovation whose advocates pronounce their goals as improved education (for all children, but particularly for minority students) and better race relations. Opposition to desegregation for the purpose of meaningful integration undoubtedly arises from a strong and deep current of opposition

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*Gregory C. Coffin, "Desegregation - Integration - Racism," School Board Policies, February 1972, p. 2.

to that purpose. But it can also be laid in part to a lack of understanding of specific purposes and methods in specific desegregation plans and to disillusioned frustration as an absence of official commitment to integration is detected and progress toward it fails to appear. A discussion of certain organizing principles for laying the groundwork for significant educational change and some lessons of past desegregation experience will suggest elements important to programs that would be more hopeful alternatives than increased school bus mileage alone.

1. Community Preparation

Alternatives to simple busing plans must incorporate tactics to defuse the emotional extremes of opposition. Proposed alternative plans should take into account

> the psycho-sociological principle that effective and lasting change in education occurs only when locally interested groups are catalyzed to interact as constructive partners in the change process.*

The intervention of professional change agents is a technique which might be given serious consideration. The specifics of the desgregation plan and what it means to each affected family should be made clear as a part of a larger attempt to involve parental interests in the quality of their children's education. Allowance for and encouragement of citizen involvement in the planning stages of proposed programs can provide some amelioration of the unpalatable "forced" flavor of court-ordered or school-

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*Stephen K. Bailey, et al., Significant Educational Research and Innovation: Their Potential Contribution to Experimental Schools Design, A Report to the Experimental Schools Program, U.S. Office of Education. Prepared by the Syracuse University Research Corporation Policy Institute (Syracuse: The Policy Institute, 1972), p. 59.

board-instituted desegregation. The objectives would be imposed, but development of the implementation process can be made responsive, in some degree, to pressures of affected community interests. Those with experience in such efforts and with an eye to the basic political nature of desegregation difficulties advise candid acknowledgment of the politics involved.* The visible marshalling of support for the program can help to defuse the more emotional opposition and hopefully allow for the hammering out of a realistic political settlement.

2. Avoidance of Hypocrisy

Acquiescence and even enthusiastic support, be they achieved, can be expected to dwindle should official commitment appear hypocritical or cynical or if progress toward expressed goals becomes seemingly hopeless. A critical review of many past desegregation programs reveals a number of ways in which official commitment has been less than total:

--Very often an "integrated" school will have segregated classrooms, in which seating arrangements perpetuate the rationale of "separate but equal."

--Token desegregation occurs all too often. Occasions of at least 20% minority enrollment are not nearly common enough to justify claims of racial "balance."

--Equality of access to all of a school's resources is typically absent. Minorities are underrepresented in schools' important

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*Norman Gross and Nicolaus Mills in the panel discussions conducted as a part of this study. Transcript available from the Policy Institute on request.

"extras" such as student government, the cheerleading squad, the glee club.

--Perhaps most absurdly, there is a correlation between implementation of desegregation and cutbacks in the level of services, notably funding.*

Such obvious breaches of the public trust in official pronouncements leave policy makers small claim on citizen support.

3. Individualizing Education

Another factor for which too little allowance has been made in desegregation/integration efforts is "the ineluctible reality of individual differences among pupils and among teachers--in capacity, in learning or teaching style, in temperament, in aspiration."** These differences are inescapable in any classroom. A recently desegregated classroom can be expected to have more than its share as a result of significant group differences in cultural background.

The effect of limiting aspirations which "ability grouping" has on pupils has been criticized in many educational contexts. In an integrated classroom the danger is compounded by racial superiority/inferiority prejudice.*** Teachers have typically been trained to teach homogeneous groups. Recognition of the importance of re-training them in the notion of individualized learning is becoming increasingly widespread. Inservice

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*From material presented by Thomas Pettigrew in the panel discussions conducted for this study. Ibid.

**Bailey, et al., op. cit., p. 59.

***Pettigrew in the panel discussions conducted for this study. Op. cit.

training preparatory to integration would logically incorporate the principle.

4. Importance of Teacher Involvement

It is axiomatic that teachers play a crucial role in significant and lasting educational improvement. A major criticism of desegregation plans* and a major indicator of "institutional racism"** is the failure to desegregate teaching and administrative staffs. Multi-racial teaching staffs coupled with the technique of team teaching could increase the statistical probability that pupils will have a chance to see "integration at work" among adult models, as well as provide a greater range of teaching styles and specialities to accommodate the individual differences of learners.

Beyond the introduction of minority members to the staff should be the provision for teacher socialization to and involvement in achieving the goals of integration. Inservice training for this purpose could focus on subjects such as "common prejudices of blacks and whites," "family background and school achievement," "race and intelligence," "sensitivity to interpersonal relationships," etc.*** Performance criteria which incorporate the goal of better racial understanding should become a basis for hiring and advancement.

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*Ibid.

**Coffin, op. cit., p. 2.

***Among topics suggested in Ibid., p. 5.

C. Educational Parks

Whether or not "alternatives" to busing that are actually more complex and more responsible busing programs than have been the rule to date will be more effective and more workable cannot be known at this point. They must be carefully considered, however, because a firm commitment to the goal of integration allows no alternative to the use of the school bus. One rather sweeping innovation which would be this type of "alternative" to busing merits further attention because of its potential for ameliorating some of the biggest difficulties facing desegregation efforts by assimilating them into a broader scope of educational change.

Educational parks would, in essence, replace the multitude of smaller neighborhood schools with a single, large school complex to which all of the students of a community (or an entire section of a larger urban area) would be transported. All of the educational services and facilities would be centralized in one campus; or, in a variation, separate campuses would encompass the whole of one educational level--elementary, middle and secondary.* The attraction with respect to desegregation is that the racial character of a particular neighborhood would not determine the racial make-up of a particular school.

The further advantages of educational parks could provide good leverage against opposition to the desegregation aspect. The economies of scale to be exploited under such a centralized condition could be strong

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*For a good presentation of the idea and implications of educational parks, see U.S. Commission on Civil Rights, Education Parks: Appraisals of Plans to Improve Educational Quality and Desegregate the Schools. Commission Clearinghouse Publication No. 9 (Washington: U.S. Government Printing Office, 1967).

arguments in this day of troubled educational finance. Central libraries could be equipped with a much wider range of the products of rapidly developing educational technology than is possible within most "neighborhood" school budgets. Specialists trained in the use of such technology should also be financially feasible. The talents of other types of specialists could be optimally utilized. Greater flexibility would be possible too. The range of electives and educational styles readily available to each student could be broadened considerably and the scope of extracurricular activities and athletic programs widened.

The potential hazards and practical problems must also enter into consideration of educational parks. From the standpoint of the present concern with desegregation/integration, the congregating of all students of all races on a single campus will not alone provide any guarantee that integration will ensue. Without attention to the several factors discussed above, progress toward integration would be likely to go no further than we have seen it in other desegregation programs.

In large metropolitan areas, unless serious attention is given to the location of campuses relative to overall regional planning, the prospect of eventual re-segregation is as real as it has been for "strategically" located new schools in the past. Since in most cases the educational park would mean the merging of existing central city and suburban school districts, new forms of intergovernmental cooperation would have to be devised.

Politically and practically, the considerable lead-time and the commitment of large portions of available resources required to implement

this alternative are important disadvantages. Such extensive change demands the assembling of a large and strong constituency. In at least one instance where the alternative of educational parks was seriously contemplated, its implementation was precluded by elements of opposition like those which have challenged other forms of desegregation.* Finally, the potential for over-centralization toward bureaucratic inaccessibility would have to be carefully guarded against. Neither good education nor meaningful integration would be served by institutional structures that would further remove the workings of the school from the understanding and participation of parents and the community as a whole.

D. Voluntary Desegregation

Alternatives to busing available to those who would reject "forced" desegregation as unworkable or undesirable and who would be satisfied with what desegregation might occur on a voluntary consumer-choice model fall into a category which includes voucher plans (tuition grants) and "open enrollment" or "free transfer" plans. (Before turning to a discussion of these, the aspects of "voluntary" desegregation within the concept of educational parks might be mentioned. Voluntary desegregation would occur where choices made among the offerings available "on campus" were based on curricular and extracurricular interests rather than the race of others participating.)

1. Voucher Plans

Voucher plans derive from the idea that competition among existing

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*See Guthrie S. Birkhead, "How the Campus Proposal Failed in Syracuse, New York". Prepared for Eastern Regional Institute for Education, Syracuse, New York, June, 1970. (Mimeo)

public schools and private schools for the patronage of education consumers, i.e., parents and students, would make schools more sensitive to the needs of those consumers and thus better schools. The mechanism for producing such competition is the tuition voucher with which parents would "buy" education for their children at schools of their own choosing. Not only is the competition expected to make schools accountable for the quality of education they offer, there is the added attraction of allowing greater choice among educational curricula and styles. It is further supposed that the measure of responsibility imposed on parents for the type and quality of education their children receive would involve many more parents more deeply in the educational process to the benefit of all concerned.

A major obstacle to institution of a voucher plan might be anticipated to arise out of opposition from teachers unions whose perception of a vested interest in the educational status quo has been demonstrated by strong stands against community control programs. A more subtle problem is gauging the possibility for perpetuation of existing educational disparities between poor and middle class children.* It might be assumed that a good many minority parents would have to persuade schools to take on the difficulties, real and imagined, of teaching ghetto children. At the same time, more prosperous parents could be expected to supplement their vouchers with private funds and thus have more "buying power" in the educational market place. The predicament for poor minority parents would

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*Derrick A. Bell, Jr., "Integration: A No Win Policy for Blacks?", Inequality in Education, Number 11, March 1972, p. 39.

be to manage an imposing job of persuasion with relatively little bargaining power.

2. A "Sliding" Voucher Plan

"Sliding" vouchers are a variation on the basic concept that is intended to weaken the potential for maintenance of significant inequities in educational opportunity.* It would have the value of tuition grants vary on a scale keyed to parental income. Poor parents would receive vouchers worth substantially more than those received by more prosperous parents. At present, no formula exists by which to calculate effective proportionate values for sliding grants. It is not hard to imagine the real political trials in store for attempts to enact such a plan. There would be, among other things, the politically thankless task of defining voucher "brackets."

3. Open Enrollment

The idea of "open enrollment" or "free transfer" is not new. It is similar to the voucher concept in that parents are given a control over the school which their children attend. The major difference is that open enrollment does not include the option of transfer to non-public schools. Also, parents do not have to make a positive decision; the option of transfer is available to parents who do not like the schools to which their children have been assigned by officials.

Open enrollment plans have been instituted a number of times in the past, and they have been struck down by the courts a number of times in

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*Ibid.

the past.

> It is probable that open enrollment schemes have usually either been designed to allow white parents to avoid any racial mixing for their children, or else have been implemented by reluctant administrators in a way that resulted in little desegregation for black children.*

One proposed variation on the basic open enrollment formulation is specifically aimed at removing the anti-desegregation aspects of past programs.

4. "Modified" Open Enrollment

In the interest of desegregation, "modified" open enrollment (as it will be termed here) would impose limits on "the freedom to choose and the rights of the majority."** White parents would be denied the option to transfer their children out of a school that minority children were beginning to enter to a school with no minority enrollment. All parents, however, would be given official guarantee of the option of having their children attend a majority white school (at least 51%). In effect, minority parents would have total freedom of transfer; but white parents would have this freedom only should they wish to send their children to a more desegregated school or on the occasion of a school's becoming predominated by a minority.

Even under an alternative such as modified open enrollment where the voluntary nature of desegregation would be curtailed, there would be a

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*Nancy H. St. John, "Desegregation: Voluntary or Mandatory?", Integrated Education, Issue 55, Vol. X, No. 1, January-February, 1972, p. 8.

**As proposed in Ibid.

good probability of the existence of segregated, minority schools. Given the policy rationale for voluntary desegregation, these would be acceptable so long as they represented a voluntary condition on the part of the segregated minority. It must also be noted that under all of the voluntary alternatives described, busing would remain necessary for implementation. It would be voluntary, but it would still be busing.

5. Satisfying the Courts

Whether or not any of the voluntary alternatives would be acceptable to the courts is for now a matter of conjecture. As was pointed out, open enrollment plans have frequently been struck down in the past. The 1968 decision in Monroe v. the Board of Commissioners of the City of Jackson, for example, judged that if a free transfer plan "cannot be shown to further rather than delay conversion to a unitary non-racial, non-discriminatory school system, it must be held unacceptable."* It can be argued, though, that "the sense of inferiority and absence of power which supported segregation" is rectified in truly voluntary plans. "Curriculum not color" governs the choice of schools. The important judicial test might be "whether the power all students possess to exercise freedom of choice has in fact been regulated unequally on a racial basis."** Ironically, modified open enrollment, as described here, the one voluntary alternative which would impose some controls on the freedom

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*As cited in Ronald W. Brown, "Busing and the Search for Equal Educational Opportunity," Journal of Law and Education, Jefferson Law Book Company, Vol 1, No. 2, April 1972, p. 271.

**Ibid.

to segregate, is the one alternative that would most obviously have trouble satisfying this test.

E. The Only Real Alternative

The only real alternative to busing is the acceptance of segregated schools. Forced busing can be avoided by so-termed voluntary alternatives; but if there be the desire to put school buses in permanent storage, desegregation on any meaningful level is impossible. (Not to mention the enormous number of children who would then be stranded long distances from any school, segregated or desegregated.)

The willful abandonment of desegregation aspirations presumes a non-concern with the demonstrated deprivation of millions of minority children or a hope that "separate but equal" or "separate but better" are not necessarily empty phrases.

1. Compensatory Education

Compensatory education has been a part of Federal and many state programs for several years. Generally proclaimed as temporary and compromise substitutes for integration, compensatory programs have been aimed largely at schools in urban areas where segregated housing patterns make integration particularly difficult even without the powerful opposition that has developed.

The charges of inefficiency, abuses, and corruption which are scattered throughout the history of the administration of Title I of the Elementary and Secondary Education Act of 1965, the largest single source of funding for compensatory education programs, demonstrate one more time the problems that "big money" programs seem to be heir to, " 'big' money

in terms of past managerial experience of recipients,...'big' money in terms of creating new bureaucracies that stifle rather than facilitate innovation."* Further, whatever mechanisms might be devised to effect more efficient and more responsible administration of compensatory programs, there continues to be little evidence that more money alone will provide better education for minority children. Seven years after Title I became Federal policy, the Chairman of the Select Committee on Equal Educational Opportunity observed that "[w]ith few exceptions, an annual Federal investment of $1.5 billion in compensatory education has had little perceptible impact on mounting educational disadvantage."**

A final word of warning has been given to those who would accept compensatory programs as an effective, lone solution:

> ...[T]here is serious doubt that enough money would be spent to insure the sustained effectiveness of compensatory education programs. A society willing to deny black children a decent education in order to preserve segregation is not likely to spend three or four times as much on black children's education as on white's, even if this kept black children out of white schools.***

For an increasingly large number of Blacks and sympathetic whites, there is only one alternative left.

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*Bailey, et al., op. cit., p. 69.

**Senator Walter Mondale, as reported in The New York Times, Feb. 27, 1972, p. E 13, col. 8.

***Bell, op. cit., p. 38.

2. Community Control

The alternative of community control is growing in favor among Blacks who have become despairing or skeptical of integration efforts and among those who never did embrace the idea of sending their children to white schools. The argument is strong that a white society that will not or cannot provide the same education for Black children that it does for its own should relinquish its authority to dictate the education that Black children do get. Controversy over whether or not Black communities can meet the challenge of such responsibility better than those who have had it until now is largely irrelevant. The obstacles presented by opposition from teachers unions and the like are indeed imposing. The fact that community control is a reaffirmation of the "separate but equal" principle cannot be denied. There are, however, those who are convinced that "integrated and equal" is impossible. If the buses are garaged, we may never be able to argue otherwise.

APPENDIX A

The 1954 Supreme Court ruling that school segregation sanctioned by state statutes violated the Equal Protection Clause of the Fourteenth Amendment,* was not the end, but rather the beginning of judiciary efforts to eliminate dual school systems. This part of the memorandum will discuss legal developments in the area of school desegregation which have occurred during the past five years. Particular emphasis will be given to the constitutional duty of school officials to take affirmative measures to desegregate dual school systems and the broadening concept of de jure segregation.

I. Duty to Take Affirmative Action to Desegregate Schools in United States v. Jefferson County Board of Education, (1966), the U.S. Court of appeals for the Fifth Circuit ruled that a State has an affirmative duty to eliminate the effects of de jure or State-imposed, school segregation. At issue in Jefferson, was the constitutionality of school desegregation plans drawn pursuant to HEW guidelines. The guidelines were based on free choice schools and in upholding the guidelines the court emphasized that freedom of choice plans were acceptable only if they actually resulted in integration.** The decree issued by the Fifth Circuit dictated elements which must be contained in a free choice plan to assure the existence of a unitary school system. These included mandatory annual exercise of choice with notice and explanation of the decision involved, equalization of school faculties, maintenance of remedial programs, and desegregation of faculty and staff.

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*Brown v. Board of Education 347 U.S. 483 (1954). [Brown]. One year later, the Court ordered that racially nondiscriminatory school systems be created "with all deliberate speed." Brown v.Board of Education, 349, 301 (1955). [Brown II].

**"Freedom of choice means the maximum amount of freedom and clearly understood choice in a bona fide unitary system where schools are not white schools or Negro schools - - just schools." 372 F2d 890.

In 1968, the Supreme Court issued its first significant school desegregation ruling involving the procedures used to implement Brown's desegregation requirement. In Green v. School Board of New Kent County, the court essentially adopted the position of the Fifth Circuit. New Kent County, a rural Virginia County, had operated a total of two schools, one black and one white. In 1965, the school board adopted a freedom of choice plan.

The Board contended that by adopting the plan, it had desegregated the school system in compliance with the law, although there was little actual integration. Using a results test, the court held that the mere existence of a freedom of choice was insufficient, and that Brown II required that dual school systems be abolished.

> School boards such as the respondent then operating state-compelled dual systems were... clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.

In ruling that mere freedom of choice is impermissible if it does not result in a "unitary nonracial" school system, the court did not outline what steps a school board must take to desegregate, but left to the district courts the responsibility of assessing the effectiveness of desegregation plans. Such plans, the Court states, must promise "meaningful and immediate progress toward disestablishing state-imposed segregation." Without dictating the means of desegregating a school system, the Green decision clearly mandated that

dilatory tactics and tokenism were constitutional violations and that school boards must take affirmative measures to eliminate de jure segregation.

After the Green ruling, many school boards continued to use tactics designed to avoid full integration in light of the Court's not yet having addressed itself to the question of what measures a school board must take to produce a unitary school system, nor having defined "unitary nonracial". Subsequently, the circuit courts of appeal rejected freedom of choice plans which produced little integration. * The lengthiness of litigation, however, allowed most school boards to use this system for the 1968-69 school year. School boards then, with assistance from the Department of Health, Education and Welfare, were compelled to prepare desegregation plans utilizing school attendance zones, pairing of schools, busing of pupils, etc. In addition to rejecting "freedom of choice," circuit courts also prohibited the use of attendance zones based on racially identified neighborhood lines and which produced little desegregation.

In October 1969, the Supreme Court again expressed its intolerance of measures that either produced less than complete desegregation or delayed desegregation of school systems. In August of 1969, the Fifth

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*Eg. Hall v. St. Helena Parish School Board, 417 F2d 801 (fth Cir.) cert. denied, 396 US 904 (1969); U.S. v. Hinds Co. School Bd. of Educ., 417 F2d 852 (5th Cir. 1969); Felder v. Harnett County Bd. of Education, 409 F.2d 1070 (4th Cir. 1969); Walker v. County School Bd. of Brunswick County, 413 F. 2d 53 (4th Cir. 1969); Jackson v. Marvell School Dist. No 22, 416 F.2d 380 (8th Cir. 1969).

Circuit Court of Appeals had granted a request by the Department of Health, Education and Welfare to delay by one year the implementation of desegregation plans for 30 Mississippi school districts. When HEW's plans were withdrawn, no other desegregation measures were substituted. All of the districts affected would therefore continue using their old freedom-of-choice plans.

In Alexander v. Holmes County Board of Education, the Supreme Court reversed the Court of Appeals delay, stating that:

> ...continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools.

In Swann v. Charlotte-Mecklenburg Board of Education, (1971) the Supreme Court for the first time considered the type of remedial action needed to create a unitary school system. The district court had appointed an expert to prepare a plan for desegregating the Charlotte-Mecklenburg school district. This plan, which the district court ordered implemented, went much further than the school board's plan toward achieving racial balance throughout the system. The plan, as finally approved by the district court and circuit court of appeals, necessitated extensive busing of students. In upholding the expert's plan, the Supreme Court not only reaffirmed the duty of school boards to take affirmative measures to eliminate dual school systems, but attempted to outline the type of actions to be taken.

> The Court found "The problems encountered by the districts courts of appeals make plain that we should now try to amplify guidelines, however incomplete and imperfect, for the assistance of school authorities and courts."

The guidelines issued by the court dealt with four methods commonly used to desegregate school systems:

1) Racial quotas, the Court ruled, may be used as part of the remedy for eliminating school segregation.

2) One-race schools are permitted in a district if there are only "some small number" of them and if they are shown not to be part of de jure segregation. The Supreme Court emphasized that district courts and school authorities must attempt to eliminate such schools. There is a presumption against the constitutionality of these schools, and the school authorities have the burden of proving "that their racial composition is not the result of present or past discriminatory action on their part."

3) School Attendance Zones may be redrawn in order to eliminate segregated schools. Racially neutral assignment plans may often be inadequate to achieve desegregation. Zones need not be contiguous, nor must they result in students attending "neighborhood schools", if they are designed with the purpose and effect of achieving non-discriminatory assignments.

4) Transportation of students was treated gingerly by the Supreme Court. Noting that "[bus] transportation has been an integral part of the public school system for years", the Court stated that ordering of busing is a proper remedy in school desegregation cases. The test of how much busing is permissable is essentially one of reasonableness:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process.

The Swann decision, although it leaves many issues untouched, is a major contribution to the law of school desegregation, in that it sustains the power of the district courts and school authorities to take strong measures, including those based specially on the race of students, to eliminate de jure segregation.*

II Judicial Challenges to Race-conscious Remedial Action

In 1967, the U.S. Commission on Civil Rights analyzed the many cases which challenged the right of State and local school officials to achieve school desegregation in the north and south by student assignment based on the race of pupils involved. The Commission concluded that:

> The Courts consistently have upheld actions at the State or local level designed to eliminate or alleviate racial imbalance in the public schools against the charge by white parents that it is unconstitutional or unlawful to take race into consideration.

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* In a companion case, Davis v. Board of School Commissioners of Mobile County, 402 US 33 (1971), the Supreme Court refused to uphold the desegregation plan of Mobile, Ala., because it treated the predominately Black eastern section of the metropolitan area as an isolated area, requiring no busing to desegregate its elementary schools, all of which were over 90% Black. The Supreme Court remanded the case to the Circuit Court of Appeals with instructions to consider non-contiguous zoning and busing in order to fashion an effective desegregation decree.

Remedying De Jure Segregation

In two recent school desegregation cases, the Supreme Court explicitly affirmed the authority of school boards to consider the race of pupils in desegregating de jure school districts. In McDaniel v. Barresi, the Court reversed an injunction against a school desegregation plan, granted by the Supreme Court of Georgia because it treated students differently on the basis of race. Chief Justice Burger, for the Court, found that:

> The Clarke County Board of Education, as part of its affirmative duty to disestablish the dual school system, properly took into account the race of its elementary school children in drawing attendance lines. To have done otherwise would have severly hampered the board's ability to deal effectively with the task at hand.

Justice Burger then referred to the affirmative duty of school boards to eliminate racial discrimination required by Green:

> In this remedial process, steps will almost invariably require that students be assigned 'differently because of their race'...Any other approach would freeze the status quo that is the very target of all desegregation processes.

In Swann v. Charlotte-Mecklenburg Board of Education the Supreme Court considered two specific remedial measures that involved assignments which take race into consideration. One was the use of racial quotas in each school, towards which desegregation efforts should be aimed. The Court held that a court could not require, as a matter of constitutional right, any particular degree of racial balance in each school. In this case, however, the mathematical ratios were used as "starting point in the process of shaping a remedy, rather than an

inflexible requirement." Such a use of racial ratios constituted a permissible, equitable remedy for the circumstances of the case.

The Supreme Court also considered the legality of the system of selection of attendance areas used by the district court to disestablish the dual school system. This system was clearly designed to transfer students on the basis of race. The Supreme Court discussed in some detail the need for such remedial measures:

> Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems.
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> . . . "Racially neutral" assignment plans proposed by school authorities to a district court may be inadequate; such plans may fail to counteract the continuing effects of past school segregation resulting from discriminatory location of school sites or distortion of school size in order to achieve or maintain an artificial racial separation. When school authorities present a district court with a 'loaded game board,' affirmative action in the form of remedial altering of attendance zones is proper to achieve truly nondiscriminatory assignments. In short, an assignment plan is not acceptable simply because it appears to be neutral.

Remedying Racial Imbalance

Lower court decisions have (affirmed in some cases by the Supreme Court) affirmed the power of school officials to overcome de facto school segregation, even though such action, unlike the steps taken in Swann, has not been held to be constitutionally required.

The power of the State to undo the effects of school segregation has been broadly defined in other decisions. In Jenkins v. Township of Morris School District, No. A-117 (June 25, 1971) the Supreme Court of New Jersey stated that the State Commissioner of Education has the power to ignore district boundaries to effectuate school integration.*

State laws designed to overcome racial imbalance in the schools have generally been upheld as a legitimate exercise of the State's police power. The Massachusetts Racial Imbalance Act which requires the withholding of State funds from districts which do not prepare and implement plans to eliminate racial imbalance, was held constitutional in School Committee of Boston v. Board of Education.

Under the Illinois statute upheld in Tometz v. Board of Education Waukegan City School District No. 61, the Illinois Superintendent of Education has issued stringent regulations requiring every school district to achieve approximate racial balance in each school, corresponding within 15 percent to the racial composition of the school district. The regulations provide for State and Federal fund cutoffs for non-compliance. They have not yet been subject to judicial challenge.

De Jure v. De Facto Segregation

The distinction between de jure school segregation -- that

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* However, districting by the state which had the effect of increasing racial imbalance but was dictated by legitimate considerations unrelated to race was upheld in Wright v. Emporia City Council, 442 F2d 570 (4th Cir. 1971) and Spencer v. Kugler, 362 F. Supp. 1235 (D.N.J. 1971).

imposed by law -- and de facto segregation -- that which is not the result of State law or purposeful discrimination by school authorities -- is one that has been drawn by the courts in defining the type of school desegregation prohibited by the Fourteenth Amendment. School desegregation rulings in the past few years, however, have construed almost all forms of school segregation as de jure or have rejected the de facto concept with increasing frequency. The effect of these cases is to minimize the significance of the de jure - de facto distinction.

A. The Distinction

The argument that only legally sanctioned school segregation violates the Constitution is based on the Supreme Court's ruling in Brown v. Board of Education I. There, the cases before the Court all challenged state sponsored and required segregation and therefore the holding only reached de jure segregation. The language of the Court does not explicitly limit the holding of Brown to state-compelled segregation. The stated rationale of Brown reached all forms of racial isolation in education, and the role of the state in segregating students was not emphasized in the working of the opinion:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law;...

The Court concluded "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

To date, the school desegregation cases which have reached the Supreme Court have all originated in States which had officially sanctioned segregation at one time. The Court has not heard a so-called "de facto" school case, and there has been disagreement among the circuit courts of appeal whether the Equal Protection Clause of the Fourteenth Amendment imposes a duty upon school officials to correct adventitious segregation. Four courts of appeals have held that there is no such duty. These rulings were all made at least six years ago, and at least one Circuit Court of Appeals, the Sixth, has changed its position on the issue of de facto segregation.

B. Abandonment of the De Facto Concept

During the past five years lower Federal Court decisions have virtually nullified the distinction between de jure and de facto segregation by expanding the de jure concept to include activities which several years ago would have been termed de facto.

Rather than rejecting the concept of de facto segregation, courts continue to hold that only de jure is forbidden by the Fourteenth Amendment. However, courts have used factual analyses of the discrimination before them to find that almost all forms of school desegregation are de jure, and therefore in violation of the Constitution.

The most prevalent form of school segregation, other than that imposed by law, is segregation which results from racial residential patterns. As early as 1961, a Federal district court held that the New Rochelle, N.Y. school board could not maintain a segregated school system which was based on racial residential districts. The court noted that prior to 1949, school attendance zones had been gerrymandered to isolate black children within one school, and that the

school board's failure to take affirmative measures to eliminate segregation was a violation of the Fourteenth Amendment. The court relied heavily on a broad interpretation of Brown, stating that it was premised on the inherent inequality of segregated education, rather than on the illegality of a state-operated dual school system.

Other Federal courts have been slow in adopting the view expressed in Taylor. It was not until 1967 that the position that a school board cannot purposefully use residential segregation as a basis for racially designed school attendance zones became more widely accepted.

One of the first circuit courts of appeal to adopt this position was the Fifth. In U.S. v. Jefferson Co., Bd. of Educ., the court characterized segregation in the South which results from residential patterns as "pseudo de facto." It stated:

> Here school boards, utilizing the dual zoning system, assigned Negro teachers to Negro schools and selected Negro neighborhoods as suitable areas in which to locate Negro schools.... Segregation resulting from racially motivated gerrymandering is properly characterized as "de jure" segregation. See Taylor v. Board of Education of the City of New Rochelle, S.D., N.Y. 1961 191 F. Supp. 181.
> The courts have had the power to deal with this situation since Brown I. In Holland v. Board of Public Instruction of Palm Beach County, 5 Cir. 1958, 258 F. 2d 730, although there was no evidence of gerrymandering as such, the court found that the board "maintained and enforced" a completely segregated system by using the neighborhood plan to take advantage of racial residential patterns.

Affirmative use of exclusionary residential patterns as a basis for pupil assignment was also struck down in Hobson v. Hanson.

There, the Federal District Court for the District of Columbia found that the District's use of neighborhood school policy as modified by the use of optional transf ones designed to permit white students living in racially mixed neighborhoods to escape to an all white or majority white schools violated the Fourteenth Amendment.

School boards have argued that they have no obligation to correct a "de facto" system inherited from their predecessors. This contention was rejected in U.S. v. School District 151 of Cook Co. The district operated six grammar schools. Two, located in a predominantly Negro area of Cook County called Phoenix, had "about 99% Negro" enrollment, according to the Court's findings. The other four schools were located in areas outside of Phoenix which were "almost exclusively" white.

The court of appeals affirmed findings that defendants "inherited from their predecessors a discriminatorily segregated school system which defendants subsequently fortified by affirmative and purposeful policies and practices which effectually rendered de jure the formerly extant de facto segregation." These policies and practices included drawing of attendance zones, busing of pupils, and the formulation of a plan to restructure the school district. The court held that the Board's conduct constituted a violation of the Fourteenth Amendment.

Other decisions have gone further, and adopted an "effects" test, holding that the use of a neighborhood school plan, even without racially discriminatory motives, is unconstitutional if such plan results in a high degree of segregation. One of the

issues in Brewer v. School Board of City of Norfolk, Va. was the gerrymandering of high school attendance zones. The circuit court of appeals, in remanding the case to the district court, instructed it to determine:

> ...whether the racial pattern of the districts results from racial discrimination with regard to housing. If residential racial discrimination exists, it is immaterial that it results from private action. The school board cannot build its exclusionary attendance areas upon private racial discrimination. Assignment of pupils to neighborhood schools is a sound concept, but it cannot be approved if residence in a neighborhood is denied to Negro pupils solely on the ground of color.

In Bradley v. The School Board of the City of Richmond, (1972) Judge Merhige found that the City of Richmond and the adjoining counties had engaged in de jure discrimination. The practices to which he referred as constituting de jure segregation were reliance on private discriminatory housing patterns, school construction and drawing of attendance zones, among others. The court relied heavily on Brewer, Davis, Tulsa and similar cases. Although the relief ordered in the Richmond case, the consolidation of three school districts, was novel, the reasoning through which de jure segregation was found was very traditional.

The Supreme Court recently granted certiorari in a Denver, Colorado, school case in which a central issue is the extent of a court's power to order elimination of so-called de facto segregation. The lower court opinions illustrate the present ambiguities of the de facto controversy.

In Keyes v. School District No. 1, Denver, Colorado, the rescission of a voluntary desegregation plan for some Denver schools, those in the Park Hills area of the city, by a newly elected anti-integration board was held to be an act of de jure segregation. In ruling on a motion for preliminary injunction barring implementation of the rescission, the court found that the usual innocent characteristics of de facto segregation, e.g., site selection, attendance zone boundaries, school construction, assignment of teachers, and the like, had been used willfully by the Board of segregate, and were therefore de jure.

In a subsequent ruling on the merits, the court carefully drew a distinction between de jure and de facto segregation. On the issue of de jure segregation in the Park Hills schools, the court found again for the plaintiff and barred rescission of the plan. The court refused to find de jure segregation in the operation of Denver schools in other areas of the city, however, and ruled that it did not have the authority to order total school desegregation because neither the Supreme Court nor the 10th Circuit had held that de facto segregation violates the Constitution. The district court attempted to define de jure segregation in its opinion and construed it fairly narrowly. The elements of state-imposed segregation which the court said must be proven (and were not in this instance) in order for it to be de jure were: purpose to segregate, segregatory result, present segregation, and causal connection between present injury and past discrimination.

In affirming the lower court on almost all points, the Circuit Court of Appeals adopted the position that state-imposed racial

segregation in the schools violates the Constitution only if it is purposeful. The burden, ruled the court, is on the plaintiffs in a school desegregation case to prove that the segregation was caused by intentional state action. Absent such a showing, the court felt it had no power to order desegregation of the city's schools. It refused to hold that "Denver's neighborhood school policy is violative of the Fourteenth Amendment because it permits segregation in fact."

In agreeing to hear the Keyes case, the Supreme Court will have to grapple with the issue of the distinction between de facto and de jure segregation. In Swann v. Charlotte-Mecklenburg Board of Education, Chief Justice Burger was careful to limit the ruling to "State enforced separation of races in public schools", or the dual school system:

> We do not reach in this case the question whether a showing that school segregation is a consequence of other types of state action, without any discriminatory action by the school authorities, is a constitutional violation requiring remedial action by a school desegregation decree. This case does not present that question and we therefore do not decide it.

In Keyes the Court will be faced not only with the question of the necessity of discriminatory intent as a precondition to a violation of the Fourteenth Amendment. Additionally, it will have to define the duty which a school board has, if any, to overcome racial imbalance in the schools which is not the direct result of official purposefully racial discrimination.

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